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EDITED BY

Lawrence B. Evans, Ph.D.

PROFESSOR OF HISTORY IN TUFTS COLLEGE

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OHIO
Cities with 100,000 to 500,000: Cincinnati
Cities with 25,000 to 100,000: Dayton
Cities & Villages with 10,000 to 25,000: Zanesville
Cities & Villages with 5,000 to 10,000: Bellaire
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Capital: County Seats: Other places:
Railroads: Canals: National Road:
Scale of Miles.
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HANDBOOKS OF AMERICAN GOVERNMENT

The Government of Ohio

Its History and Administration

BY

WILBUR H. SIEBERT

PROFESSOR OF EUROPEAN HISTORY IN OHIO STATE UNIVERSITY;
AUTHOR OF "THE UNDERGROUND RAILROAD FROM SLAVERY TO FREEDOM"

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Set up and Electrotyped September, 1904
Reprinted May, 1908

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THE MASON-HENRY PRESS
Syracuse, New York.

PREFACE

THIS book is intended to give in brief compass a comprehensive account of the government of the State of Ohio as it has developed to the present year—the hundredth anniversary of Ohio's admission to Statehood. The plan of treatment conforms in general to that laid down for all the volumes of the series to which this book belongs, but several features have been suggested by the excellent work of Professor W. C. Morey on *The Government of New York,* which also appears in this series. In accordance with this plan, the *growth* of the government during the fifteen years of its Territorial life and the hundred years of its life as a State has been treated in Part I (Chapters I and II); the *structure* of the government has been described in Part II (Chapters III, IV, V, and VI); and the *work* of the government has been set forth in Part III (Chapters VII, VIII, IX, X, XI, and XII). It will be seen from this arrangement that an effort has been made to lay due stress on the functions of the State, a subject generally slighted despite the fact that these functions are an expression of the will of the people, are performed for the benefit of the people, and constitute the objects for which a modern government exists.

A list of helpful references is supplied at the beginning of each chapter for the use of readers and students

It is earnestly recommended to teachers using this volume as a text-book that they encourage their pupils to consult such of these references as may be available or can be readily obtained. Every school library is probably supplied with histories of Ohio and Bates' *Annotated Statutes of Ohio.* These works, together with a copy of the *Manual of Legislative Practice* and recent volumes of the *Ohio Laws* and the *Executive Documents*—which can be secured without difficulty—would constitute a serviceable working collection (even though small) for the use of those who are soon to become citizens of the Commonwealth. Separate *Reports* of the State officers, departments, and institutions may be had on application.

Illustrative materials in the form of historical documents, a chronological outline of the history of the State, synopses of the central and local governments, statistical tables, etc., will be found in the Appendices; and it is hoped they will prove to be a convenience.

In the preparation of this book the author has received aid from many sources. He is especially indebted to his colleagues, Prof. James E. Hagerty and and Mr. George W. Rightmire, for the major parts of Chapters XI and VIII, respectively; to the Hon. Lewis C. Laylin, Secretary of State, who read Chapter IV, and was good enough to explain various knotty points in State administration; to the Hon. C. B. Galbraith, State Librarian, who has shown a sustained interest in the book from its inception; and to Miss Alice

Boardman, also of the State Library, who has helped in the discovery of some particulars that were hard to find. Finally, the author's thanks are due to the general editor of the series for many valuable suggestions, and to Dr. Edgar H. McNeal for assistance in reading the proof sheets.

If this volume shall be found valuable as a guide for the general reader interested in the government and political institutions of Ohio, and, at the same time, adapted to the needs of the students of civil government in our schools, it will have fulfilled the purposes for which it was written.

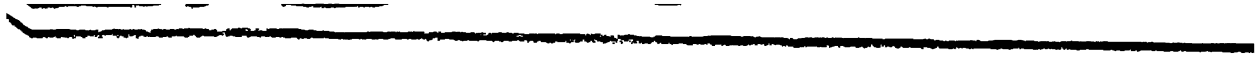
W. H. S.

OHIO STATE UNIVERSITY,
COLUMBUS, O.

The above was written in 1903. The publication of this volume has been delayed to the present in order to make the changes in the text necessitated by the revision of the school code, election laws, etc., by the legislature of last winter.

W. H. S.

OHIO STATE UNIVERSITY,
August 30, 1904.



To

LOUIS SIEBERT

AND

SARAH VAN DE WATER SIEBERT

A Son's Tribute

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PART FIRST

THE GROWTH OF THE GOVERNMENT

CHAPTER I

OHIO AS A PART OF THE NORTHWEST TERRITORY

I. REFERENCES

Chase, "Preliminary Sketch of the History of Ohio" [to 1833], in Chase's *Statutes of Ohio and of the Northwest Territory;* Atwater, *History of the State of Ohio, Natural and Civil* [to 1837], Cincinnati, 1838; "Outline History of Ohio" in Howe, *Historical Collections of Ohio,* I., 33-49; for a description of the soil and productions of Ohio in the Territorial days, see James, *Ohio in 1788* [trans.]; Burnet, *Notes on the Early Settlement of the North-West Territory,* Cincinnati, 1847; Taylor, *History of Ohio,* [1650-1787], Cincinnati, 1854; Hildreth, *Pioneer History,* Cincinnati, 1848; Hinsdale, *The Old Northwest,* New York, 1888; Graham, "Legislation in the Northwest Territory," in *Ohio Archaeological and Historical Quarterly,* vol. I.; D. W. Howe, *Laws and Courts of Northwest and Indiana Territories,* Indiana Historical Society Pamphlets; Ryan, "From Charter to Constitution," in *Ohio Archaeological and Historical Quarterly,* vol. V.; Smucker, "Our First Court," in *Magazine of Western History,* vol. IX.; and "Our Territorial Statesmen," in the same periodical, vol. I.; Parkman, *La Salle and the Discovery of the Great West,* and *The Conspiracy of Pontiac;* Winsor, *The Westward Movement;* Roosevelt, *The Winning of the West,* 4 vols.; Sloane, "When did Ohio become a State of the Union?" in *Ohio Archaeological and Historical Quarterly,* vol. IX.; Perkins, "Fifty Years of Ohio," in *North American Review,* vol. XLVIII.

Laws of the Northwest Territory; Chase, *The Statutes of Ohio and of the Northwest Territory,* 2 vols.; Smith, *St. Clair Papers,* 2 vols.

2. Colonial Claims to the West

Charter grants to English colonies.

When James I., king of England, chartered the London and Plymouth Companies in 1606, he and his officers knew little of the Atlantic seaboard of the new American continent, to say nothing of the unexplored and densely wooded country lying westward beyond the mountains. If they had known what a vast expanse the New World was, it is not at all likely that they would have been so generous in the bestowal of lands for colonization. In the case of the second charter of Virginia, for example, granted in 1609, the boundaries of the proposed colony were described as extending along the Atlantic south from the mouth of the Potomac for four hundred miles, "and thence extending from the seacoast of the precinct aforesaid up into the land throughout, from sea to sea, west and northwest."[1] These terms brought the unknown region northwest of the Ohio River within the domain of Virginia. But earlier charters marked out broad belts of territory reaching to the Pacific, which also included the Ohio country; and thus the grounds were being prepared for a conflict of claims among the English colonies, subsequently established, to the fertile tracts of the West.

French explorations.

But the conflict of claims to the land northwest of the Ohio River was not confined to the colonies of a single nation. France was largely concerned in it.

[1] Bancroft, *History of the United States,* I., 99; King, *Ohio,* 31; Poore, *Charters and Constitutions,* II., 1897.

This came about through her acquisition of New France or Canada, which was successfully begun in the first decade of the seventeenth century, and through the exploration of the Mississippi and Ohio rivers by Frenchmen before the end of the same century. In 1682 LaSalle, without knowing the great scope of his proclamation, took possession of the western country drained by the Mississippi and its tributaries in the name of Louis XIV., king of France, and called it Louisiana in the king's honor.

Conflict of French and English claims.

Thus through the explorations of the Jesuits, the western lands granted by England to her American colonies came to be regarded by the French as belonging to their domains, and they proceeded to fortify the country at various points and to make friends with the Indian tribes. By 1700, therefore, British pretensions to the West seemed all but destroyed, while France had apparently established her sovereignty over the whole section watered by the Mississippi and its branches and the lakes of the North.

3. Indian Occupants of the Ohio Country

Location of the tribes.

By this time some French traders and bushrangers were beginning to settle along the southern shore of Lake Erie and along the lower Sandusky and Maumee rivers. The rest of what is the present State of Ohio was largely occupied by a race of savages, the Algonquins, the chief tribes of which came sooner or later to have "tolerably definite locations." Of these tribes, the Ottawas, Wyandots, and Chippewas lived in the northern part of this region, and in the west, central, and eastern parts of it respectively. In the southern part were the Miamis, in the basin formed by the river

of the same name; the Shawnees in the central valley of the Scioto, and farther to the northeast the Delawares, between the upper tributaries of the Muskingum. Indeed, all of the nations or tribes named found it convenient to dwell in or near the inviting valleys of the chief water-courses of the Ohio territory, for they were hunters and fishers and did not till the soil. To this list of Ohio tribes should be added the murderous and marauding Mingoes, made up for the most part of fugitives and outlaws from the other nations, and living on the eastern frontier of this territory near the headwaters of the Ohio.[1]

nflicting ims of In- n nations.

These Indian tribes were not native to Ohio. They had found their way to their present forest habitations from the surrounding wilds. It is said that they had first entered and occupied the Ohio country "under French protection and authority." But the English denied this, and so also did the ferocious Iroquois, or Five Nations, of the Lake Ontario region to the northeast—now central and western New York—who claimed to have conquered all this western country forty years before the appearance of the French.

lian ances and sions.

In 1701 the French established a settlement and fort at Detroit, and made the territory between Lake Erie and the Ohio subject to their new colony. This aroused the anger of the Iroquois and the English, and accordingly the former surrendered their territorial claims in the West to the latter in July of the same year, confirming this act by a second deed of cession in 1726.[2] In the French and Indian War, soon to break out, the

[1] Roosevelt, *The Winning of the West*, I., 70-73.
[2] King, *Ohio*, 45.

Iroquois sided with the English; the Algonquins, excepting a few, with the French.

4. Early English and American Settlements

The Ohio Company of Virginia.

It is unnecessary to enter into the story of the French and Indian War, which involved the chief nations of Europe in a conflict lasting from 1754 to 1763. As early as September, 1714, Spotswood, the governor of Virginia, had seen the expediency of "securing the valley of the Ohio by a series of forts and settlements."[1] But his plan had gone unheeded until 1748, when the Ohio Company of Virginia, formed for the purpose of colonizing the region beyond the Alleghenies, began its pioneer but transient work. Chartered by the English lords commissioners of trade in the following year, the association received a grant of 500,000 acres of land, and the company's surveyor, Gist, was sent down the Ohio on a prospecting tour in 1750. The company soon had two trading posts fortified; but before settlement and trade fairly began the outbreak of the French and Indian War arrested further progress, and the American Revolution following sealed the ruin of the association. The first Ohio Company was not invested with civil authority, and its lands were to be located mainly between the Monongahela and Kanawha rivers, that is, south of the Ohio.[2] Nevertheless its work is deserving of mention in our civil history. Gist was the first Englishman, so far as known, to explore southern Ohio; and his published reports helped to arouse interest in the back country on the part of the English

[1] Parkman, *The Conspiracy of Pontiac*, I., 102.
[2] Hinsdale, *The Old Northwest*, 58.

colonies. It was not long until the Indian town of Pickawillany, near the present location of Piqua in western Ohio, "became a great center of English trade and influence."[1]

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At the close of the French and Indian War in 1763 the British settlements did not extend beyond the Appalachian range.[2] But already the English traders and hunters had begun to swarm into the Ohio valley.[3] These had followed the deer paths across the mountains, and were in turn followed by the settlers. By 1780 some primitive settlements existed along the north bank of the Ohio as far down as the Muskingum, and even thirty miles back from the river; and a military officer, sent to break up these colonies of squatters, reported as many as twelve settlements west of the upper Ohio, among them some of considerable population. As just mentioned, these settlers were squatters, and their titles consisted solely in what was called "tomahawk right." They made their choice of abode to suit their fancy and convenience, usually near a spring, built a hut of some sort, cleared a patch of land for cultivation, and published their claim of ownership by chopping their initials on the trees at the corners of their clearings. In one of these early and irregular settlements (Mercertown) we catch the first glimpse of civil government in Ohio in the election of two justices of the peace; while in another, at the mouth of the Kanawha, what may have been the first Ohio town-plat is evidenced by the sale of town lots along the river front at £10 each and on the back streets at £5 each.[4]

[1] Hinsdale, *The Old Northwest*, 59, 264.
[2] Parkman, *The Conspiracy of Pontiac*, I., 102.
[3] Hinsdale, *The Old Northwest*, 61.
[4] King, *Ohio*, 191-194

5. Acquisition of the Northwest Territory by the United States

Effects of t Revolution on Ohio history.

When the Declaration of Independence was adopted, the lands between the Ohio and the Great Lakes were claimed in whole or in part by Virginia, Massachusetts, Connecticut, and New York. The various claims were of such a conflicting nature that no equitable adjustment seemed possible, while among those States that had no lands in the West there was a feeling that since these lands were being won from England by the united action of all the States, they should belong to the Union and not to the four States having claims therein. Hence, when the Articles of Confederation were submitted to the States for ratification in 1777, Maryland announced that she would not ratify them unless the lands northwest of the Ohio were ceded to the Union. She thus brought to an issue the question whether the western lands, including the Ohio country, were to become national property, or were to fall into the hands of Virginia and the other claimant States. This question was in dispute from 1777 until 1785, and the first practical step towards its settlement was taken by New York in 1780, when that State surrendered its claim to the Confederation.

Ohio first outlined by Washingtor 1783.

Washington was not deterred by these disputed claims from early suggesting the blocking out of a commonwealth in the western country. Indeed, his suggestions, made September 7, 1783, form the first approximate geographical sketch of the future State of Ohio; and their adoption by Congress five weeks later, when a region was set apart north of the Ohio River for the exclusive colonization of the white man as distinguished from the

red, fixed the location, though not the full extent, of the emerging Commonwealth. The westernmost part of the present State was not included within the boundaries defined by Washington. The western limit which he proposed began at the mouth of the Great Miami, followed that river as far as Dayton, thence ran across country to a point within a few miles of the mouth of the Maumee and so down stream to Lake Erie.[1]

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But before Congress could proceed far with its work of state-making, the claims of the other States had to be silenced. Under the pressure of the non-claimant States, Virginia, Massachusetts, and Connecticut ceded their lands to Congress in the years 1784, 1785, and 1786 respectively. The claims of the first and last were the most important, and together embraced the whole of what is now Ohio. But both Virginia and Connecticut retained certain parts of the Ohio territory. The lands retained by the former lay between the Great Miami and Scioto rivers; and were for the most part given in bounties to the Revolutionary soldiers of Virginia. Hence this district has been called the Virginia Military Lands. The reservation kept by the latter comprised three and a quarter millions of acres extending for 120 miles along Lake Erie. This district (5000 square miles) was held for settlement by emigrants from Connecticut, and was later known as the Western Reserve. A great slice of 500,000 acres off the west end of this district was set apart in 1792 for the benefit of the citizens of certain Connecticut towns whose possessions had been destroyed or damaged by the torch of the invading Brit-

[1] R. G. Thwaites on "The Boundaries of Wisconsin," in *Collections of the State Historical Society of Wisconsin*, XI., 451.

ish soldier during the Revolutionary War. The section thus allotted became known as the Fire Lands or the Sufferers' Lands, and includes the present counties of Huron and Erie, besides the adjacent part of the peninsula forming the eastern portion of Ottawa county.

6. Congressional Measures for the Development of the Northwest Territory

The Land Ordinance, 1785.

With the exception of these reservations, the Ohio country was incorporated with the Federal domain. The question of the orderly and legal settlement of this region had presented itself to Congress from time to time while the negotiations for the cessions were pending. To provide for such settlement Congress passed two ordinances of incalculable importance in the development of the Northwest. The first of these was the Land Ordinance of 1785, which supplied a system of land surveys for facilitating the sale of public lands, and at the same time laid a broad and deep foundation for the beneficent system of our public schools.[1]

The rectangular surve

Across the Ohio River in Kentucky the pioneers had been allowed to have private surveys made of the lands they had chosen, and it often happened that the tracts thus marked out were irregular in shape and size and wrongly recorded at the State land office. Sometimes it was found that several patents had been issued for the same piece of land. Congress tried to prevent such confusion north of the Ohio by providing a new method of survey, on the rectangular or "checkerboard" plan, and a corps of government surveyors was sent to carry it out. The country was divided into ranges of town-

[1] See Chapter IX.

ships six miles square, each township being subdivided into sections one mile square and therefore containing 640 acres. The ranges, townships, and sections were to be duly numbered. The surveyors began their work under the protection of Federal troops, but after completing the first seven ranges they were forced to give it up on account of the hostility of the Indians.[1] The system of surveys thus inaugurated was gradually extended to other parts of the State, with a few exceptions. The most important of these exceptions were the Connecticut and Virginia reservations.[2]

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The basis for our system of public schools was laid by the provision that one section in each township (section 16 near the center of the township) should be reserved for the support of public schools therein. The framers of the Land Ordinance have received unstinted praise for this provision. John Fiske, the historian, says "no other nation has ever made a gift for schools on so magnificent a scale;"[3] and Hinsdale points out that this was "the first and greatest of the long series of similar dedications made by Congress to education;" and that "the funds derived from the sale of these original 'school lands' are the bulk of the public school endowments of the five great States of the old Northwest."[4]

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The Land Ordinance was intended to attract settlers,

[1] Howe, *Historical Collections of Ohio*, I., 133-136; Hinsdale, *The Old Northwest*, 255-262.

[2] In the Connecticut reservation, the townships were made five miles square instead of six. In the Virginia reservation no regular system was introduced; the pre-emptor was entitled to have the number of acres called for by his land-warrant marked out in such form as the existing conditions and his own preference dictated.

[3] Fiske, *Civil Government in the United States*, 86.

[4] Hinsdale, *The Old Northwest*, 262.

and had now to be supplemented by the Ordinance of 1787, a measure which established a government for the Northwest Territory.[1] The motives impelling Congress to enact this second ordinance are apparent. In the first place, Congress hoped to place the finances of the young republic on a good basis by selling a large tract of land west of the mountains; and in the second place, a company of purchasers was awaiting the completion of the Ordinance before closing its contract for the land in question, being especially anxious to see slavery forever excluded from that part of the country.[2]

The Ohio Company of Massachusetts.

Already in June, 1783, 285 officers of the Continental Army—of whom more than four-fifths were from New England and more than one-half from Massachusetts—had petitioned Congress to set apart the region comprising almost the eastern two-thirds of the present State of Ohio for colonization, "in time to be admitted one of the confederated States of America,"[3] and to include their bounty lands in this district. This was the beginning of the Ohio Company of Massachusetts, which was organized in Boston, March 3, 1786, at the "Bunch of Grapes" tavern. The association made its purchase through the Rev. Manasseh Cutler, the lands selected being on the Ohio River immediately west of the Seven Ranges, and lying on both sides of the Muskingum.[4] The purchase was connected with a speculative scheme,

[1] The full title of the Ordinance is "An Ordinance for the government of the territory of the United States northwest of the river Ohio." The Northwest Territory comprised all of Ohio, Indiana, Illinois, Michigan, and Wisconsin, and a small part of Minnesota.

[2] Winsor, *The Westward Movement*, 267.

[3] Hinsdale, *The Old Northwest*, 267; see also *The Ohio Archaeological and Historical Quarterly* for June, 1887, 46.

[4] King, *Ohio*, 195.

and 5,000,000 acres were bargained for, but only 964,000 acres fell to the Ohio Company.[1]

7. Organization of the Territorial Government

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The government provided by the Ordinance of 1787 applied, of course, to the whole Northwest Territory, and hence the instrument is often called the Northwest Ordinance; but the part taken by the Ohio Company in giving it its final form, and the fact that it was first tested under the local conditions existing in the Ohio country where the seat of government was fixed, lend a special interest to our study of the famous act. The Ordinance recognized two phases of Territorial government, and fixed the terms according to which defined portions of the Territory could enter upon Statehood with constitutions of their own.[2] In the first Territorial phase, the administration was entrusted to a governor, three judges, and a secretary, all appointed by the President.[3] The governor was vested with full executive authority; was made commander-in-chief of the militia with power to select his military subordinates below the rank of general officers; was authorized to lay out counties and townships, and appoint all magistrates and other civil officers in these districts; and, jointly with the judges, was entrusted with the adoption and enforcement of such civil and criminal laws from the original States as seemed suitable.

[1] Winsor, *The Westward Movement*, 290-293.

[2] The text of the Northwest Ordinance will be found in Appendix B, § 87.

[3] These officials were chosen by Congress until the adoption of the Federal Constitution in 1789. For lists of these officers, see Appendix A, § 86.

Second phase of government under the Ordinance.

The Territory was to enter upon the second phase of government, that is, have a general assembly of two chambers, when there were 5000 free male inhabitants of full age in the district. This assembly was henceforth to pass all laws, which must be in agreement with the Ordinance, and receive the assent of the governor to be valid. Thus the executive would become an essential part of the law-making body, and could override its will if he chose. In this second phase, the governor retained his power to appoint all military and civil officers, and to lay out counties, but the latter might be altered by the general assembly.[1] All officials were to live in the Territory. A property qualification existed in the case of both officials and voters.[2] The legislature was to elect a Territorial delegate to Congress. The secretary was to perform the duties indicated by his title, and was to act as governor when the latter was absent from the Territory.

The six guarantees in the Ordinance.

Besides these regulations, certain principles were embodied in the Northwest Ordinance, which have always been cherished by the people of Ohio, and preserved by them in their State constitutions framed in 1802 and 1851 respectively. These principles are set forth in the famous six articles of the Ordinance and form an enduring compact between the original States and those carved from the Northwest Territory. The first article guaranteed freedom of religion to those demeaning

[1] *The Ordinance of* 1787, sec. 7, 8.

[2] *Ibid.*, sec. 3, 4, 9. For the governor, the requirement was a freehold of 1,000 acres in the district; for the secretary, judges, and members of the council, 500 acres each; for representatives, 200 acres; and for voters or electors, 50 acres, besides some other qualifications.

themselves in an orderly manner. The second secured to the settlers and their descendants the privileges of the common law, and such safeguards as trial by jury, the writ of *habeas corpus*, the validity of contracts, and proportionate representation in the legislature. The third declared that good faith should be kept with the Indians, and that schools and the means of education should forever be encouraged. The fourth ordained that the States formed within the Territory should forever remain a part of the United States, and be subject to its laws. The fifth provided for the formation of not less than three nor more than five States out of this region, each of which should attain equal footing with the original States when possessed of a population of 60,000 free inhabitants and a republican form of government. The sixth declared that there should be no slavery in the Territory, but recognized human bondage to the extent of permitting the reclamation of fugitive slaves who had escaped hither from any slave State. It was under these terms that the orderly settlement and civil life of the budding State of Ohio began.

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The forty-eight persons, who are the "pilgrim fathers" of Ohio, and constituted the original colony of the Ohio Company, landed with their stores at the mouth of the Muskingum, April 7, 1788, in a "long bullet-proof barge," which they had appropriately christened the Mayflower. Here under the protection afforded by the Federal outpost, Ft. Harmar, they began to make a clearing for their settlement, afterwards named Marietta, showing their desire for good order by posting a temporary code of laws on a tree the day after their arrival, and choosing one of their number, Return Jonathan Meigs, to enforce it. The number of colonists

increased slowly, and by the end of the summer there were not yet 150 adult males. Marietta became at once the seat of Territorial government and the domicile of Governor Arthur St. Clair, Secretary Winthrop Sargent, and the three judges, all of whom had been recently appointed.[1]

Creation of the first counties and townships.

Soon after assuming office, July 15, 1788, the governor established Washington county and appointed the necessary county officers. His right to divide the counties into townships and appoint township officials he soon yielded, and it was bestowed by law on the justices of the court of general quarter sessions of the peace. Thus the township in Ohio became dependent on the county. In 1792 township assessors were provided for and their appointment was given to the court of common pleas, but the change to the method of election of the assessors in 1795 gave the people their first share in the management of township affairs.

Government of the county and township.

The character of rural local government in Ohio at this period, and the relation of the county and township to the Territorial government, may be summarized in the following words. Washington county was the first agency for the administration of both local and general government. The local government, moreover, was "local" in a very restricted sense; it was not self-government by locally elected officers, but government by officers appointed by a governor in the Federal service, and administering laws which that governor and his associate Federal officers adopted as well as enforced. Even the division of the counties into townships rested with the court of general quarter sessions—a body appointed by the governor—and the power of naming most

[1] For the Territorial officers, see Appendix A, § 86.

of the township officers belonged to the members of this tribunal. Rural government was not different in character in the other eight counties created by executive action in the Ohio country before the division of the Territory.

Beginnings and character of urban government.

Urban government in Ohio began with a town meeting of the original settlers of Marietta, February 4, 1789, held for the purpose of making some police regulations. The second example of urban government is furnished by Losantiville (later Cincinnati), founded in the same year, where "similar measures of self help were resorted to."[1] In both cases these measures were taken in the absence of the Territorial officers, who seem to have had the acknowledged right to establish village government.[2] Such selection of officers as might be made by the people of any community must have the permission of the governor and be confirmed by his appointment, as in the case of the French settlement at Gallipolis. In 1790 the people of this colony were advised by St. Clair to choose both civil and military officers, but with the instruction to send the names to him in order that he might appoint them.[3]

8. The Territorial Government in its Second or Legislative Phase

Influx of population; new counties and towns.

The progress of the Northwest Territory towards the second or legislative phase of government was hastened by the rapid increase of the population in the Ohio

[1] Howard, *Local Constitutional History of the United States*, I., 412.

[2] Wilgus, "Township Government in Ohio," *Annual Report of the American Historical Association for 1894*, 404, 406.

[3] King, *Ohio*, 217.

country. The English occupation of a number of western posts ceased in 1794, when Jay's treaty was signed between the mother country and the United States. The Indian wars were brought to a close in the following year by the treaty of Greenville, which released about two-thirds of the Ohio region from Indian occupation, leaving the northwestern portion of the future State, together with other outlying territory, in the hands of the red man.[1] The conclusion of these wars opened the way for the tide of civilization to sweep into the eastern and interior regions of Ohio. The lands between the Great and Little Miami rivers, farther west, known as Symme's Purchase, were first settled at Cincinnati (then Losantiville)[2] in the fall of 1788, and in 1790 became the second Ohio county (Hamilton). The population of the Virginia Military District, which lay between the Scioto and Little Miami, and was thrown open to occupation in 1790, spread gradually northward until it became sufficient to constitute the District a county (Adams) in 1798. Chillicothe in the northern section of this region was not established until 1796; and Dayton, another inland city, fifty miles up the Great Miami, was founded in the same year. The sale of lands in the Seven Ranges progressed rapidly after the consummation of the Greenville treaty;[3] and it was at this time also that Connecticut sold her Western Re-

[1] For Wayne's treaty line, established by the treaty of Greenville, see map facing page 19.

[2] One of the founders of Cincinnati, a pedantic schoolmaster, compounded the name, Losantiville, of French, Latin, and Greek words. The name signifies "the town (*ville*) opposite (*anti*) the mouth (*os*) of the Licking (*L*)." Governor St. Clair gave the town its present name in January, 1790: Winsor, *The Westward Movement*, 315.

[3] King, *Ohio*, 266.

serve to an association, the Connecticut Land Company, for colonization. Within a few months the first town was founded in the Reserve at the mouth of the Cuyahoga, called Cleveland after its chief founder.

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This influx of settlers soon brought up the number of free male inhabitants in the Territory to the number required for the establishment of a general assembly or legislature, and the number of counties increased apace. By 1798 the Northwest Territory was entitled to enter upon its second stage of government. The governor proclaimed an election, in which each county chose one representative to the lower house for every five hundred of its population. The lower house helped to create the upper by nominating ten persons, of whom five were appointed by the President to serve in the legislative council. Of the nine counties voting, five lay within the future bounds of Ohio. Of the twenty-two representatives elected, fifteen, or nearly three-fourths, came from these Ohio counties. Finally, of the five members of the "legislative council" or senate, four were also from Ohio counties. Thus far the people had been governed, as St. Clair himself remarked, "by laws adopted or made by persons in whose appointment they had had no participation." They had grown weary of the autocratic government imposed by the Ordinance; and they greeted with pleasure the day on which the assembly began its first legislative session, September 23, 1799.

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Early in the first session two petitions of Virginia veterans were presented to the Territorial House of Representatives praying for the privilege of bringing slaves into the Territory, but the House voted decisively against it.[1] The subject of the subdivision of counties

[1] *The St. Clair Papers*, II. 447, 451.

also engaged the attention of the lower house early in the session. Petitions from the citizens of Hamilton and Adams counties asked for the creation of new counties in their respective districts. The general assembly voted in accordance with the petitions, and St. Clair vetoed their acts. This was the commencement of a long controversy between the legislative and executive branches of the Territorial government, which did not end until, embittered by political disagreements, it was carried into Congress and there decided against the governor.

The original Ohio counties.

Meantime St. Clair went on erecting new counties. He formed the Western Reserve into Trumbull county in July, 1800; he established Clermont and Fairfield in the following December, and Belmont in September, 1801. This completed the nine counties which formed the basis of the State of Ohio.[1]

Division of the Territory.

For some time, both in Congress and in the Territory, much had been said as to the expediency of dividing the Territory. It was urged that the area included in it was too large for efficient government. The population also was increasing so rapidly that the Territory would soon be entitled under the Ordinance of 1787 to claim Statehood, for which it was obviously unfit. Accordingly on May 7, 1800, an act was signed by the President by which all that part of the Territory lying west of a line drawn from a point on the Ohio opposite the mouth of the Kentucky to Fort Recovery and thence north to the Canadian boundary was constituted the Territory of Indiana.[2]

[1] King, *Ohio*, 281.

[2] *Annals of Congress, Sixth Congress*, 1498. When Ohio became a State these boundaries were slightly changed.

Second session of the Territorial legislature.

During its second session, the assembly came to the conclusion that Article V of the Ordinance of 1787, which provided for the division of the Northwest Territory into States, required changing, because the proposed States, according to the boundaries laid down, would be "extremely unequal in territory and population, and the eastern State (Ohio) in particular would be too extensive for the purposes of internal government."[1] So the assembly passed an act declaring that, if Congress shoud consent, the Scioto River should be the western boundary of Ohio, instead of the Ordinance line, which was to be drawn due north from the mouth of the Great Miami to the line between the United States and Canada. Another enactment transferred the seat of government from Chillicothe to Cincinnati.

9. The Framing of the First Constitution

The first Ohio constitutional convention.

The remonstrance called out by these measures did not stop short of direct protest made through two agents sent to Washington for the purpose. The national House of Representatives sustained the boundary arrangements of the Ordinance of 1787, and April 30, 1802, the United States Senate concurred in authorizing a convention of delegates from the proposed eastern State which should frame a constitution and organize a government, if deemed expedient. There was scarcely anybody in the convention who had a doubt about the expediency of the proposed step, and after but little more than three weeks of deliberation, a constitution was adopted, November 29, 1802.

[1] *Laws of the Northwest Territory*, 341. Law approved December 21, 1801.

The first Ohio election.

The constitution provided that the sheriffs were to be authorized to hold an election on the second Tuesday of the ensuing January (1803) for the choosing of a governor, members of the general assembly, sheriffs, and coroners; and the first Tuesday in March was fixed on for convening the first legislature of the new State at Chillicothe. A temporary apportionment of representatives was so made by the convention that the new legislature consisted of a Senate of fifteen members and a House of thirty members.

Ohio becomes a State.

Meanwhile the possible inconveniences of the change from Territorial to State government were avoided by the continuance of the Territorial officers in power until superseded under the State constitution, by the administration of the existing laws until they should be repealed, and by the provision for the unimpaired validity of old claims, rights, and suits that had not yet been settled.[1] The constitution of the proposed State was submitted to Congress for approval, but not to the people who must live under its sway, and Congress thereupon established Ohio as a judicial district and extended the operation of the Federal laws over its territory; but it was not until the meeting of the first general assembly, March 1, 1803, and the announcement of the results of the election held the previous January that the Territorial government ceased, and Ohio became a State.[2]

[1] See *Constitution of Ohio* (1802), Schedule, §§ 3, 4, 6, 7.
[2] King, *Ohio*, 295.

CHAPTER II

OHIO AS A STATE

10. References

King, *Ohio* [to 1880]; Ryan, *History of Ohio* [to 1865]; articles on "Ohio" in Johnson's *Cyclopaedia*, the *Encyclopaedia Britannica*, and Appleton's *Annual Cyclopaedia;* Carpenter and Arthur, editors, *The History of Ohio* [to 1850]; Thwaites, "The Boundaries of Wisconsin," in vol. XI. of the *Collections of the State Historical Society of Wisconsin;* Galloway, "The Ohio-Michigan Boundary Line Dispute," in vol. IV. of the *Ohio Archaeological and Historical Publications;* Reid, *Ohio in the War*, 2 vols.; Fairlie, "The Municipal Crisis in Ohio," *Michigan Law Review*, Feb., 1903.

Howe, *Historical Collections of Ohio*, 3 vols.; Poore, *The Federal and State Constitutions, Colonial Charters, etc.; Ohio Constitutional Debates.*

11. Organization of the Government under the First Constitution

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The civil history of Ohio as a State divides itself naturally into two parts. The first of these extends from the time when the constitution of 1802 went into operation to June, 1851, when it was supplanted by the existing constitution, and the second from June, 1851, to the present time. Under the Territorial form the people of Ohio had been denied the right of self-government; and the Territorial legislature had come into clash with the governor, who had used his veto freely in enforcing his will. Moreover, the democratic ideas of Jefferson had

taken a strong hold on the pioneers of the West, whose free and unconventional manner of life furnished soil well adapted to the growth of such ideas. It is not surprising, therefore, that the convention which framed the constitution of 1802 should have sought relief from an autocratic system in which the governor joined with the Territorial judges in imposing a code of laws justly characterized as "strict and even cruel." This explains why the first constitution, in distributing governmental power among the three departments, executive, legislative, and judicial, gave the largest share to the legislative, reduced the authority of the governor to a few insignificant functions, and deprived him of the veto power.

Powers of the legislature.

The result secured by the new arrangements was government by the people through the representatives whom they sent to the legislature. Hence, besides the right of making and amending the laws, the legislature was empowered to name the State executive officers below the governor, namely, the secretary of state, the auditor of public accounts, and the State treasurer; to appoint the chief military officers (major-generals and quartermaster-generals), and elect the judges of the supreme court and the courts of common pleas. The governor and all other State officers were liable to impeachment and trial by the legislature for misdemeanor in office. The legislature voted the taxes, and made all appropriations; it determined the jurisdiction of the courts; and it could increase the number of judicial circuits. Thus we see how completely all departments and officials of the State were "within reach of the legislative power and influence."

Make-up of the legislature.

The general assembly, as the legislature was called, was made up of two elective houses, and held annual

sessions. Representation in both branches was apportioned among the counties or districts according to their white male population. Representatives were required to be twenty-five years of age, and were elected annually. The age qualification for senators was thirty years and their election took place biennially, one-half being chosen each year.

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governor.

"'The governor'" was "a name almost without meaning."[1] He was required to see that all laws were faithfully executed, but as a matter of fact the enforcement of laws, then as now, rested mainly with the local authorities, rather than with the governor. He reported to the legislature on State affairs from time to time, and recommended measures which the assembly was free to ignore. On extraordinary occasions he could convene or adjourn the legislature. He signed all commissions; but his appointing power was limited to filling the office of adjutant general, and, during the recess of the legislature, such offices as were usually filled by its appointment. He could grant reprieves and pardons except in cases of impeachment. His most substantial prerogative was his power as commander-in-chief of the army and navy of the State.[2]

e courts.

The judicial power of the State was vested in the supreme court, common pleas courts, justices of the peace, and such other courts as the legislature might establish. The limits within which this power might be exercised and the subjects to which it could be applied

[1] Chase, *Statutes of Ohio*, I., 35; King, *Ohio*, 291.

[2] Chase says: "He may appoint one or two officers; in certain contingencies, he may exercise one or two unimportant powers; it is his duty to make out commissions; and he enjoys the petty prerogatives of pardon and reprieve, and this is all." (Chase, *Statutes*, I., 35.)

The Counties of Ohio as organized when State was admitted to the Union in 1803.

were prescribed by the legislature. The supreme court consisted of four judges, of whom at least two were required to hold court in each county once a year. The legislature divided the State into circuits and elected the common pleas judges for each. A president judge was appointed in each of these circuits, and was assisted by two or three associate judges in each county in settling the judicial business of the county. All matters that now belong to the probate court were then under the jurisdiction of the common pleas court. The justices of the peace were elected for a three years' term.[1]

Migrations of the capital.

The legislature convened at Chillicothe, March 1, 1803, and continued to hold its sessions there until February, 1810, when by legislative act it was transferred temporarily to Zanesville. Here it assembled during two years, then returned to Chillicothe, where it met until Columbus became the seat of government in 1816. The conditions which fixed the location of the capital at the center of the State were accepted by the legislature in February, 1812, and consisted of proposals from the owners of the "high bank on the east side of the Scioto River, opposite the town of Franklinton," to give ten acres to the Commonwealth for a State-house, and twenty acres for a penitentiary, and erect upon these grants suitable buildings.

Provisions for State administration.

In its early sessions, the legislature had a large amount of business to transact in modifying and repealing the Territorial laws, and organizing the State and local administrations. With some few exceptions all the laws of the governor and judges and the Territorial legislature were repealed in the winter of 1804-05, and a tolerably complete system of statute law, known as the

[1] Chase, *Statutes of Ohio*, I., 33.

"Maxwell Code," was enacted. Such matters as punishment of crimes, the administration of civil justice, the organization of the militia, the collection of the revenue, the conveyance of property, etc., were thus provided for. By earlier laws the old courts had already been abolished and new ones established in their stead. New State officers were appointed and their functions defined; United States senators were elected, and an act passed providing for the election of a member of the national House of Representatives.

›visions local ad- ıistration.

Local affairs also received the attention of the lawmakers. The county sheriff, coroner, and commissioners, who had hitherto been appointed, were hereafter to be chosen by popular vote.[1] The office of surveyor was created (1803), and the court of common pleas in each county was given the power to fill the office. The choice of recorder and county treasurer was placed in the hands of the associate judges of the county.[2] At the same time the number of counties was increased, eight being established in the course of the first session. By 1811 there were forty-one counties in Ohio. The War of 1812 between the British, aided by Tecumseh and his Indians, on the one side, and the Americans, on the other, resulted in freeing most of northwestern Ohio from Indian occupation, and so cleared the way for the creation of a new group of counties.[3] The Indian titles

[1] Vacancies occurring in the offices of sheriff and coroner were to be filled, under an act dated April 15, 1803, by county election. Ten months later an act was passed providing for the election of three commissioners in each county.

[2] By act of April 16, 1803.

[3] This region comprised the part of the State north of the Greenville treaty line and west of the Firelands, except certain reservations at Wapakoneta, and on the Auglaize and Sandusky rivers, which remained in the hands of the tribes until

were extinguished by treaty in 1817 and 1818, and in 1820 the legislature divided the recently acquired district into fourteen counties. However, these remained unorganized for the time on account of their scanty population.[1]

12. The Ohio-Michigan Boundary Dispute

Cause of the dispute.

A contest with the State of Michigan for jurisdiction over a wedge-shaped strip, averaging six miles in width, embracing 470 square miles, and including the lake-port of Toledo, hung fire for a long time, and was finally won by Ohio. The difficulty arose through ignorance of the location of the southern extremity of Lake Michigan when the boundaries of the adjoining States were first marked out. In the Ohio enabling act of 1802 the northern limit of the new State was described as "an east and west line drawn through the southern extreme of Lake Michigan." But it was not known just where such a line would run, and hence the constitutional convention added the proviso that if such a line would not intersect Lake Erie, or would cut off a slice of the northwest corner of the State, then with the consent of Congress, the northern boundary should be formed by a direct line running from the head of Lake Michigan to the northernmost cape of Maumee Bay. No objection was raised to this proviso in Congress, and Ohio was duly admitted into the Union.

they received other and larger tracts west of the Mississippi. The last Indians withdrew from the State in 1841.

[1] King, *Ohio,* 338, 339. The counties created were Allen, Crawford, Hancock, Hardin, Henry, Marion, Mercer, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, and Wood.

tlement he)ute.

When the Territory of Michigan was erected in 1805, her southern boundary was in some way allowed to overlap the "proviso" strip, and Michigan exercised territorial jurisdiction over the tract for some time. Government surveys did not settle the question and civil strife threatened to break out between the two parties. It was not until Michigan's admission to Statehood in 1837 that the disputed tract was assigned to Ohio, Michigan receiving the Upper Peninsula by way of recompense.[1]

13. Progress of Ohio to 1851

rease of ulation counties.

During the decade, 1810-1820, Ohio had been making great strides in population, the increase amounting to more than 150 per cent.; and with 580,000 inhabitants she became fifth in the list of States. By 1840 the population reached 1,520,000, and Ohio advanced to third place, a rank which she held until 1890, when she fell to fourth place.[2] The rapid growth of the population during the first half-century brought with it a corresponding development of new counties, and the last of our eighty-eight counties was organized in March, 1851. The first phase of the civil history of Ohio as a State is thus marked by the release of every section of her territory from disputed claims and by the virtual completion of the work of equipping the Commonwealth with county governments.

[1] Thwaites, "The Boundaries of Wisconsin," in *Collections of the State Historical Society of Wisconsin*, XI., 451*ff*; Galloway, "The Ohio-Michigan Boundary Line Dispute," in *Ohio Archaeological and Historical Publications*, IV., 199-230; King, *Ohio*, 356-361; Ryan, *History of Ohio*, 122-129.

[2] See Appendix E, § 98, for the growth of the population from 1800 to 1900.

The wonderful growth of population, which explains the increase in the number of counties, itself requires explanation. This is the era of the building of the National Road, the development of steam navigation on the western lakes and rivers, the opening of the Ohio canal system, and the beginning of railroads in the State. The people of the interior section of Ohio remained without a market for their produce until the National Road was begun in 1808. This great highway gave them an outlet to the tide-waters of the Atlantic and intermediate points, and furnished at the same time a comfortable way of ingress for intending settlers. It was undertaken by the Federal Government, Congress making many appropriations for the enterprise; but these sums were replaced from funds set aside by the States through which the road passed. The total cost of the improvement was $7,000,000. The National Road ran from Cumberland, Md., on the Potomac, through Maryland, Pennsylvania, Virginia, Ohio, Indiana, and into Illinois. Besides helping to open up the western wilderness, it became a bond of union between the older and newer States. In 1834 Congress began to surrender portions of the road to the States, and by 1856 retained no control over any part of it. Ohio, which had a larger mileage than any other State (200 miles), received her section in 1853.[1]

The Nation Road.

The first steamboat on the Ohio River, the *New Orleans,* was launched at Pittsburgh in October, 1811, and was soon followed by many others, which began bringing in traders, settlers, and merchandise, as well as car-

The first steamboats; the canals.

[1] Searight, *The Old Pike,* 14; "Roads and Road Construction," in *Bulletin* No. 17, U. S. Department of Agriculture, 1895, 11, 12, 16, 17.

rying out farm produce. The steamboat ***Walk-in-the-Water*** made her first trip on Lake Erie in August, 1818, and the revolution in lake traffic was thus begun. Our canal system is an outgrowth of the enterprise of the State of New York in building the Erie Canal from the Hudson to Lake Erie. In January, 1822, the legislature of Ohio proposed to test the feasibility of connecting the same lake with the Ohio by means of canals, and appointed a commission to report on the subject. This led to the appointment, under the act of February 4, 1825, of a board of canal commissioners to begin construction, and a board of commissioners of the canal fund to borrow the money needed for the work. Contracts were made in 1825 and excavation begun in 1826; and the entire system was finished in 1842. The system consists of two main canals crossing the State from northeast to southwest, with their branches, reservoirs, and feeders. The Ohio and Erie Canal connects Cleveland and Portsmouth, and is 309 miles in length exclusive of feeders. The Miami and Erie Canal joins Toledo and Cincinnati, and is 250 miles in length. The Hocking and Walhonding canals are branches of the former, but have been abandoned by the legislature, which authorized their sale in 1894 and 1896 respectively. The total cost of construction was over $14,340,000. Of this amount $2,200,000 was realized from the sale of 1,200,000 acres of land in the northwestern part of the State given by the Federal Government; and the State received material aid from individuals and private corporations in the form of donations of land, right of way, and money.[1] Chase declares that the canals "attracted a large accession of population and

[1] Bates, *Annotated Statutes of Ohio, 1900,* II., 203*ff*.

capital."[1] They also had an important effect on towns and villages along their course, especially in the northern part of the State. King well says that they "built up Cleveland, Toledo, Akron, Massillon, and many lesser marts."[2]

Railroads.

The first of our canals had scarcely been completed when railroads were introduced into Ohio in 1832. The first railroad in the State was finished in 1836, and ran from Toledo into Michigan, being about thirty miles in length. The second was built from Cincinnati to Springfield, a distance of 90 miles, and was owned half by the State, and half by individuals and the city of Cincinnati. By 1852 there were 890 miles of railroad in operation in the State, and the era of activity in railroad building in Ohio was only just beginning.[3]

14. Development of County and Township Government

Summary of county developmen to 1851.

The development of the county during Ohio's first period as a State is noteworthy for three reasons: (1) for the establishment of all the counties of the State excepting one, which was erected soon after the close of the period; (2) for the creation of several new county offices, namely, surveyor, infirmary directors, auditor, and prosecuting attorney; and (3) for the change from the plan of appointment to that of election in the case of the majority of the county officers. The sheriff, coroner, recorder, surveyor, commissioners, assessor, auditor, prosecuting attorney, and treasurer were all made elective; the clerk and infirmary directors remained for

[1] Chase, *Statutes of Ohio*, I., 46.
[2] King, *Ohio*, 350.
[3] Burkett, *History of Ohio Agriculture*, 64, 65.

the time appointive. Thus the principle of direct self-government was widely, though not fully, introduced in county matters, and county government took on a republican form.

Township development; town meetings.

The township came in for its share of consideration in the opening sessions of the legislature of the new State. The incorporation of townships was provided for, the establishment of these units of civil government being left to the county commissioners. The regulation of the concerns of the township was placed in the hands of trustees elected by the voters of the district. The county commissioners and township trustees were authorized to assess taxes for certain purposes within their respective limits. The local administration of justice was improved by defining the duties of justices of the peace and constables. The earliest efforts of the Territorial legislature to secure popular election of township officers had been blocked by St. Clair's veto. It was not until 1802 that the legislature succeeded in cutting loose from the appointive system. Town meetings were now established, and enjoyed the right of electing by ballot "a township clerk, three or more trustees or managers, two or more overseers of the poor, three fence viewers, two appraisers of houses, one lister of taxable property, a sufficient number of supervisors of roads, and one or more constables." The business of the town meetings was limited to the election of officers, and once elected these persons governed the township. By an act passed in 1804 a treasurer and two judges of election were added to the list, but the other officers were reduced in number to three trustees, two overseers of the poor, two fence viewers, and two appraisers of property, one of whom was to serve as lister of taxable

property. In case a sufficient number of persons did not attend the meeting to proceed with the election, the trustees were not required, as hitherto, to call another meeting, but could themselves appoint all the officers. For a few years, from 1804 to 1810, the town meeting was also authorized to levy certain local taxes, but in 1810 this function was transferred to the township trustees, and thereafter the town meeting had no other duty than that of choosing the local officers. After 1820 no provision was made for town meetings, and this institution seems to have lapsed at once. Thus there is little or no ground for a comparison of the town meeting in Ohio with that of the New England States, which still exists. In New England the town meeting has always been a most active agency in self-government, levying the town taxes, and deciding questions of local administration, as well as electing town officers. Since 1810 the township electors have been without other power than that of choosing their officers, except that on occasion they may express an opinion about any matter submitted by request of two or more freeholders of the township. An act passed in 1820 is the basis of our present system of township government: it directs the constable to notify the voters to assemble for the purpose of choosing certain enumerated officers, and the government of the township has ever since continued to be republican in form, that is, vested in officers elected by the people, differing but little in this respect from the developed form of our county government.[1]

[1] Wilgus, "Evolution of Township Government in Ohio," in the *Annual Report of the American Historical Association for 1894*, 408-412.

15. Clash between the Legislative and Judicial Departments of the State

Cause and results of the clash.

The improvement in the local administration of justice by the defining of the duties of justice and constable, mentioned above,[1] was effected in 1805. The act relating to justices requires more than a passing notice, for it gave rise to a prolonged wrangle between the legislature and the courts, and brought in its train the first impeachment proceedings under the new constitution. The act granted jurisdiction to justices of the peace to try suits without a jury where the amount in dispute did not exceed fifty dollars. Both the judges of the common pleas and of the supreme court of the State held that this provision was invalid, on the ground, first, that it violated the guarantee in the Federal Constitution of trial by jury in controversies exceeding twenty dollars in value; and, second, that in their opinion it ran counter to the article in the State constitution declaring inviolate the right of trial by jury. The legislature showed its resentment by beginning impeachment proceedings in the session of 1807-8 against three of the judges—two of whom were members of the supreme court. The investigation ended two years later in the acquittal of those brought to trial. The senate, sitting as the high court of impeachment, did not convict the judges. But the legislature did not let the matter drop here. At the session of 1809-10, it decided on a new and general election of judges, claiming that the term of seven years for which the first judicial officers were chosen was now expiring. Hitherto the practice had been to commission new judicial appointees,

[1] See p. 32.

as well as judges elected to fill vacancies, for a full instead of a reduced term. The judges resented the legislature's action, but nevertheless more than a hundred officials, including the judges of the supreme and common pleas courts, and all justices of the peace, were dismissed from office.[1] At the same time the legislature reduced the number of supreme judges, recently increased to four, to three—the original number. In the new elections thus made necessary the obnoxious judges failed of reappointment; and others, who were appointed, declined to serve. The divisions resulting in some of the courts interfered greatly with the administration of justice.

16. Repeal of the Black Laws

Substance and repeal of the Black Laws.

The removal of the restrictions of the Black Laws from the colored citizens of Ohio was accomplished during this period, and these persons entered upon the enjoyment of new civil rights. These laws date back to 1804 and were amended in 1807. They required black and mulatto persons to furnish legal proof of their freedom to the county clerk in counties where they proposed to settle, and to give bond against becoming public charges. The color of the skin was allowed to prevent such persons from testifying in any case where one of the parties was white, and even to exclude them from the right of maintaining an action at law against a white person. The concealing of a negro who was claimed as a slave, or the employment of one who had failed to comply with the law subjected the offender to a fine.[2]

[1] King, *Ohio*, 314; Chase, *Statutes of Ohio*, I., 38-41.
[2] See *Ohio Laws* for the years mentioned.

From 1829 on numerous memorials and petitions were sent to the legislature requesting the repeal of these cruel laws. At length, in February, 1849, they were repealed by a section of the act authorizing the establishment of separate schools for colored children.

17. New Arrangements under the Second Constitution

Reasons for the adoption of the constitution of 1851.

The wonderful progress of Ohio during the era of her first constitution rendered the arrangements contained in her fundamental law inadequate. The constitution of 1802 had been hastily prepared; it was obscure in some respects; its apportionment of representation had been outgrown; its judicial system was defective and insufficient; many internal improvements had been made; a large number of cities and towns had sprung up; numerous benevolent and other public institutions had been established; and, finally, the people wished to elect their public officials more generally, instead of letting the legislature appoint them. Hence the legislature decided, March 23, 1849, to submit the question of holding a constitutional convention to popular vote, and the plan was approved at the polls. Delegates were accordingly elected, and the convention met in Columbus, May 6, 1850, to draft a new constitution. It completed its work March 10, 1851.[1]

Unlike the first constitution the new one was ratified by vote of the people, being adopted by over 16,000 majority in June, 1851. With some amendments made in 1875, 1883, 1885, and 1903, it still remains the organic law

[1] The principal parts of the constitution are given in Appendix B, § 90.

of the State. An article in the instrument requires the periodical submission of the question of constitutional revision at intervals of twenty years, beginning with 1871. In the year named the people voted for a constitutional convention, but two years later refused to accept the instrument framed by that body. Since then public sentiment has been content in the main with the existing constitution.

Changes effected by the constitution of 1851.

The changes effected by the new constitution are worth noting. The sessions of the legislature, formerly annual, were now made biennial, and the term of representatives was increased to two years. The appointing power of the legislature was greatly abridged. State officers and judges, formerly chosen by joint ballot of the two houses, were henceforth to be elected by the people. The legislature also lost the right to appoint the trustees of benevolent and other State institutions, which was transferred to the governor. This was the only respect in which the governor's authority was increased. The judicial department was considerably altered. The number of judges of the supreme court was increased from three to five, and the principle of election was applied generally in filling these and the inferior judicial positions. The legislature has since increased the number of supreme judges to seven. District courts were created and placed above the common pleas courts. There were nine of these district courts, each presided over by three common pleas judges. Cases carried up from the lower tribunal would therefore often come before the very judges who had decided them in the common pleas courts. Thus it happened that a careful revision by an entirely different court was rarely obtained, and this destroyed much of the value of the right

to appeal to a higher tribunal. This evil was remo by a constitutional amendment in 1883, when the dist courts were supplanted by circuit courts with judge their own. The State was divided into seven circ —increased to eight in 1887—and in each of these th circuit judges are now elected. The three circuits the court of common pleas, existing under the first c stitution, were abandoned for nine common pleas tricts, to which a tenth has since been added. Prob courts—one for each county—were also created, an competent number of justices of the peace for the to ships provided for. Finally, the legislature was auth ized to create such other courts inferior to the supre court, as might be necessary. Under this clause, it authorized the organization of the superior court of C cinnati and two county courts of insolvency.[1]

18. The Civil and Criminal Codes, and the Revised Statutes

Civil and Criminal Codes.

Article XIV of the new constitution authorized revision of the practice of the courts. Accordingly March, 1852, the legislature passed an act creatin commission of three persons to prepare a code wh should apply to all State courts of record, that is, ci criminal, and probate courts. As a matter of fact, he ever, the new code was limited to the procedure in c cases, and hence is called the Civil Code. This at once supplemented by acts defining the jurisdict and regulating the practice of probate courts and j tices of the peace. A Criminal Code was not enac until 1869.

[1] For a discussion of these various courts, see Chapter IV

The *Revised Statutes of Ohio.*

In 1874 it was decided to revise and unify the whole body of laws of the State, and a special commission was appointed for the purpose in 1875. The work was finished after four and a half years of arduous labor, and the important result appears in the *Revised Statutes of Ohio,* published in 1879, and subsequently amended several times.[1]

19. County, Township, and Municipal Government since 1851

County government since 1851.

Since 1851 the internal development of county government has been a continuation and completion of that which took place during the earlier period of our State history. County government has become completely republican in form. The second constitution itself carried forward this movement by providing that the county clerk should be elected by the voters of the county, instead of appointed by the common pleas court; it also provided for the election of a probate judge in each county. Infirmary directors have been elected since 1886. Along with the growth of the State has come also a marked increase in the duties assigned to the various officers. These duties have been enlarged and defined from time to time by legislative enactment until they have reached their present scope.[1]

Township government since 1820.

There has been little material change in township organization since 1820, and the functions of this division are the same to-day as in the year named. The will of the people here "finds direct expression only in the choice of [township] officers at the polls." Unlike the town-

[1] See the preface to Bates' *Statutes,* 1879, vol. I.

[2] For the present duties of county officers, see Chapter V.

ships of some other States, these units are not represented on the board of county commissioners, and do not have town meetings. But the Ohio township is "entrusted with a most important branch of local administration—the management of the public schools" of the division;[1] and it is in this branch of township business perhaps that the most noticeable change has taken place. The trustees of the township are no longer empowered to establish school districts within the township and to exercise a general supervision over school matters. All this is now under the control of a township board of education.[2] The list of township officers has been changed in another respect. Fence viewers and overseers of the poor were long ago dropped, and the duties of these officers assigned to the trustees; and in like manner the assessors of to-day have taken the place of the appraisers of houses and the lister of taxable property.

unicipal vernment nce 1851.

Under the constitution of 1802 municipal corporations were created by special act. Each town or village received its own charter from the legislature, and elected its officers and conducted its business under the terms of its charter. But a clause in the constitution of 1851 changed this by requiring the legislature to provide for the organization of cities and incorporated villages by general laws,[3] and to this end, in May, 1852, the legislature "enacted a general municipal corporations act—

[1] Howard, *Local Constitutional History of the United States*, I., 157.

[2] Wilgus, "Township Government in Ohio," in the *Annual Report of the American Historical Association for 1894*, 412.

[3] *Constitution of Ohio* (1851), Art. XIII. § 6; other clauses bearing on the same subject are Art. II. § 26, and Art. XIII. § 1.

the first of its kind in the United States—which repealed all of the special charters then in force." This act divided Ohio municipalities into four classes according to population, and thus made the organization and grant of powers depend on the size. During the next fifteen years the classification was extended until many cities and villages were isolated each in a separate class for certain purposes. The municipal code adopted in 1878 did little or nothing to improve this condition of affairs, and certainly did not stand in the way of the subsequent enactment of a large number of special laws applying to particular municipalities.[1] Thus the confusion in municipal affairs that had existed when special charters were granted arose again under the present constitution, despite the restrictions contained in this instrument.

The new municipal code.

On June 26, 1902, the supreme court rendered a decision that practically declared all existing acts of the Ohio legislature relating to municipalities to be unconstitutional.[2] This decision left our municipalities without government, and the court therefore suspended execution of its decree until the legislature should enact a new municipal code in keeping with the constitutional requirements. The governor called an extra session of the legislature to meet on August 25th for this purpose, and on October 22d it adopted a new municipal code. By the provisions of this code our municipal corporations are divided into villages and cities, the former

[1] Wilcox, in his *Municipal Government in Michigan and Ohio*, p. 79, points out that there were 1202 such acts, designating municipalities by name, passed from 1876 to 1902.

[2] State *ex rel.* Kniseley *v.* Jones, 66 *Ohio State Reports*, 453; Fairlie, "The Municipal Crisis in Ohio," *Michigan Law Review*, Feb., 1903.

having a population of less than 5000, the latter a population of 5000 or more. The new law creates both a village and a city form of government based on the principle of three departments, legislative, executive, and judicial. The organization of villages remains much the same as under the former law, but considerable changes are effected in the legislative and executive departments of cities. No new provisions were enacted for municipal courts, on account of party opposition, which failed to give the affirmative vote of two-thirds of the members of each house required by the constitution for legislation establishing judicial courts. The new scheme of organization went into effect in April, 1903, and modified considerably the governments of the seventy-two cities of over 5000 population.

20. Present Condition of the State

a and ulation.

Ohio contains 41,060 square miles, of which 300 are water surface. Her population, which now numbers ninety times as many people as she had when admitted to the Union, has increased steadily during the last twenty years, although at a lesser rate than during preceding decades. The increase from 1890 to 1900 was 13.2 per cent. and the population in 1900 was 4,157,545. The State is dotted over with numerous cities and smaller communities, of which nine have more than 30,000 inhabitants; four between 20,000 and 30,000; fifteen between 10,000 and 20,000; forty-three from 5,000 to 10,000; and one hundred and eighty-eight a population of from 1,000 to 5,000. The leading cities are Cleveland, 381,768; Cincinnati, 325,902; Toledo, 131,822; Columbus, 125,560; Dayton, 85,333; Youngs-

town, 44,855; Akron, 42,728; Springfield, 38,253, and Canton, 30,667.[1] As compared with the other States in the Union, Ohio is twenty-fourth in area and fourth in population.

Commerce and manufactures.

Ohio's wealth arises from agriculture, manufacture, and commerce. The advantageous location of the State gives it an extensive commerce on Lake Erie and the Ohio River, and it is traversed by most of the great railroad lines connecting the East and the West. Its manufactures are of the most varied sort and include agricultural machinery and implements, boots and shoes, fire clay and pottery products, glass and iron manufactures, vehicles and cars, twine, cordage and paper, woolen goods, lumber, lime, flour, and wine.

Mineral products.

The State is rich in mineral products. "The eastern and southeastern parts of Ohio contain about 12,000 square miles of coal-producing strata. In most of the coal regions iron ore and fire clay are mined to a greater or less extent and support extensive furnaces and manufactories. Petroleum and natural gas are abundant and widely distributed. Other mineral products are cement rock, gypsum, peat, salt, marl, lime, and building stone. The sandstone quarries are among the best in the United States."[2]

Agriculture and horticultur

Agriculture is one of the most important of the State's industries. The uplands produce large crops of wheat, and the bottom lands of the numerous rivers large crops of Indian corn. "Fruit culture is a profitable industry, especially on the shores and islands of the western part of Lake Erie, where grape growing and wine making have assumed large proportions. Berry culture has

[1] See Appendix E, § 100.

[2] Howe, *Historical Collections of Ohio*, I., 54.

been a source of much profit in the southern and southeastern parts of the State."[1] The staple crops of the State are corn, hay, wheat, oats, potatoes, and tobacco, the first five in their order being far and away the most valuable in money returns.

[1] Howe, *Historical Collections of Ohio*, I., 54.

PART SECOND

THE STRUCTURE OF THE GOVERNMENT

CHAPTER III

CHARACTER OF THE STATE CONSTITUTION

21. REFERENCES

Bryce, *American Commonwealth,* I., ch. 27, "The Federal System," ch. 28, "Working Relation of the National and State Governments," ch. 36, "Nature of the American State," ch. 37, "State Constitutions," ch. 39, "Direct Legislation by the People;" Lalor, *Cyclopaedia of Political Science,* "States," "Bill of Rights;" Wilson, *The State,* secs. 1088-1091 (on the relation of State and Federal law); Hart, *Actual Government,* ch. 6, "The States and the Union;" Jameson, *Constitutional Conventions,* ch. 2, "Of Sovereignty," ch. 3, "Of Constitutions;" Hinsdale, *The American Government,* Part III., "The State Constitutions;" Hitchcock, *American State Constitutions* (Questions of the Day Series); Davis, "American Constitutions" (in *Johns Hopkins University Studies,* III., 9, 10); Jameson, "Constitutional and Political History of the States" (in *Johns Hopkins University Studies,* IV., 5); Cooley, *Constitutional Limitations,* ch. 3, "Formation and Amendment of State Constitutions.

For the constitution of Ohio, see Bates, *Annotated Statutes of Ohio,* vol. III.; Poore, *Charters and Constitutions,* vol. II., or the *Manual of Legislative Practice in the General Assembly of Ohio.* The principal parts of the constitution form Appendix B, § 90, of this book.

22. Relations of the Federal and the State Constitutions

State the ion.

We turn now from the story of the growth of the government of the State to consider the present structure of the State government. This structure is outlined in the existing State constitution; and certain of its features are determined by provisions contained in the United States Constitution. In this way the State is made to fit into the Federal system, and is prevented from exercising powers that would tend to destroy the Union. Our State was admitted into the Union on the same terms as the other constituent States. These terms are set down in the Constitution of the United States. Thus the people of Ohio live under two constitutions, the Federal and the State; they are subject to two sets of laws, the laws of the Republic and those of the State. They make and execute their own laws and have a share in the making and execution of the Federal laws. In short, they are at once citizens of the United States and of the State of Ohio.

lication eral law.

Such an arrangement as this could not have been made without the grant of certain powers on the part of the States to the Federal Government, and the placing of definite limitations to the authority of the States. Of the powers granted to the United States, some are binding on the States as political units, and some directly on the citizens themselves. Every school boy knows that a person who counterfeits United States money or stamps, tampers with the mails, or manufactures "moonshine" whiskey, is violating Federal law, and, if caught, will be prosecuted by United States officers and imprisoned under Federal authority. With matters of this

sort the State has nothing to do, inasmuch as it has limited itself by the delegation of certain powers to the Federal Government.

Powers denied the State.

Certain other powers are expressly denied to the States. For example, the Federal Constitution denies the States the right to abolish their republican form of government, to make treaties, to maintain an army and navy, to declare war, to pay any debt incurred in aid of rebellion, to coin money, and to pass *ex post facto* laws, laws impairing the validity of contracts, or laws abridging the rights of citizens of other States.[1]

Limitations of Federal authority.

While thus limiting the authority of the State in certain respects, the Federal Constitution sets bounds to its own authority in the following words: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."[2] The distinction between delegated and reserved powers here made serves to prevent conflict between Federal and State authority. The State is supreme within its own sphere, as the United States is within its sphere. Further it may be said, without going into details, that the sphere of the State enables each Commonwealth to retain control of its immediate affairs and all matters pertaining to local government within its boundaries. The great bulk of the business of government thus continues to rest with the State.[3]

Supremacy of the Federal Constitutio

As a final precaution to prevent conflict of authority between the Federal and the State governments, the Federal Constitution declares that its provisions, and all laws made in pursuance therewith, are "the supreme

[1] *Constitution of the United States,* Art. I. § 10; Art. XIV.
[2] *Ibid.,* Amendment X.
[3] Wilson, *The State,* 483, 487.

law of the land, ... anything in the constitution or laws of any State to the contrary notwithstanding."[1]

The State's share in the Federal government.

Our review of the relations of the State and Federal constitutions is not yet complete. The people of the State have a share in the making and execution of the nation's laws. To this end their legislature chooses two persons to represent them in the United States Senate; they themselves elect a number of members to the House of Representatives from the congressional districts of the State; and they help elect the President and Vice-President of the United States. Thus they have a voice in the Federal Government, and should therefore be obedient to its laws.

Features of the State constitution.

The government of each State is based upon its constitution. This instrument determines how the reserved powers of the State shall be exercised. We can better understand the importance of our constitution if we examine certain characteristic features. First, it is the organic law established by the people for the administration of State affairs, and is the source of political power within the limits of the State. Second, it defines and guarantees the rights and privileges of the people. Third, it provides for the machinery and methods of local government.

23. Constitution Making

Making of the first and second constitutions.

The first constitution of Ohio was framed by a convention of delegates from the proposed State. This convention was authorized by Congress, and it finished its work by adopting a constitution, November 29, 1802. The new constitution was submitted to Congress for

[1] *Constitution of the United States*, Art. VI. § 2.

approval, but not to the people. After the lapse of forty-seven years, the inadequacy of the first constitution became apparent, and the legislature submitted the question of holding a constitutional convention to the people, who gave their approval. It was in pursuance of this action that delegates were elected and the convention met that drafted the constitution of 1851. This instrument was ratified by vote of the people. Thus the principle of direct legislation by the people was recognized in our constitution-making. This principle was further applied by the insertion of articles requiring (1) the periodical submission of the question of constitutional revision to the people, (2) the approval of such revision by popular vote, and (3) the ratification of single amendments or particular changes by vote of the people.[1]

Amendment of the constitution.

An amendment to the constitution requires three steps —proposal, publication, and ratification. (1) It is proposed in either house of the legislature, and must be agreed to by at least three-fifths of the members of each house. (2) It is then ready for the second step, which is publication in at least one newspaper in each county once a week for six months preceding the next election for members of the legislature.[2] (3) At the election named the amendment is submitted to the voters for adoption or rejection. If more than one amendment is submitted at a time the electors are entitled to vote on them separately, and a majority of all the votes cast, if

[1] *Constitution of Ohio* (1851), Chapter I. 21; Chapter II. 36.

[2] A recent act requires that in counties having newspapers of general circulation that represent each of the two leading political parties, the amendment shall be published for the proper period in one paper of each party. *Ohio Laws*, vol. 95, 291, 292.

in favor of the amendment, causes it to become a part of the constitution.[1]

Party action on amendments.

In 1902 the legislature adopted a measure which permits the State convention of any political party that polled at least one per cent. of the entire vote cast at the preceding general election to approve or disapprove a proposed amendment, and have its action printed along with the amendment on the Australian ballot. On the lines below are printed the words "Yes" and "No," with blank squares to the left. By marking a cross in one or the other of these squares the elector votes for or against the amendment.[2]

Revision of the constitution.

The procedure in revising the entire constitution is more elaborate than that in adopting an amendment. (1) The question, "Shall there be a convention to revise, alter, or amend the constitution?" is first submitted to the people by the legislature. This question may be submitted at any election for members of the legislature; and must be presented regularly at intervals of twenty years, counting from the year 1871, when the question was submitted for the first time. (2) In case a majority of all the electors voting favor a convention, the legislature provides by law for calling such a body, which undertakes to remove the defects in the existing constitution by suggesting particular modifications or drafting a general revision, as may seem necessary. (3) Finally, the alterations proposed by the convention must be submitted to the people and adopted by a majority of the electors voting thereon.[3]

The constitutional convention.

The work entrusted to a constitutional convention is

[1] *Constitution of Ohio* (1851), Art. XVI. § 1.
[2] *Ohio Laws*, vol. 95, 352.
[3] *Constitution of Ohio* (1851), Art. XVI. §§ 2, 3.

so fundamental in character, that we must regard this body as the first in importance among the deliberative assemblies that are held in the State. The convention is composed of as many members as the House of Representatives, who are chosen in the same manner. The members must assemble within three months after their election to begin their work of constitutional revision. So much is fixed by the constitution itself.[1] Other regulations relating to a constitutional convention and its work are left to be formulated either by the legislature or by the convention itself.

24. Rights of the People.

The "bill of rights."

As authors of the constitution, the people of the State have embodied their own fundamental rights in their organic law. They have thus safeguarded their rights, and have not left them solely to the protection of State officers. These rights are sometimes spoken of as principles of constitutional liberty and make up that part of our constitution called the "bill of rights." They are cherished both for themselves, and because they were won by our English forefathers in a struggle with tyrannical kings lasting from the thirteenth to the seventeenth century. They first appeared in Magna Charta and its confirmations, were reiterated in the famous Bill of Rights of 1689, were developed in the Declaration of Independence in 1776, incorporated in the Federal Constitution through the adoption of the first ten amendments, and are repeated in all of the State constitutions.

Rights of the people.

The guarantees found in the bill of rights of the Ohio constitution may be considered in two groups. The

[1] *Constitution of Ohio* (1851), Art. XVI. § 2.

first group deals with the rights of the people taken collectively. In this group we find the affirmation of the equality of the people in civil and political rights, of their inherent right to alter and abolish their government when they think it necessary, of the right of assembly and petition, of the right of the people to bear arms for their defense and security, of the right of the legislature to suspend laws, of the right of the government to appropriate private property for public uses on the condition of giving a just compensation to the owner (the right of "eminent domain"), and finally the declaration that all powers that are not delegated by the constitution to the State government are reserved to the people.[1]

Rights of the individual.

The other group deals with the rights of the individual. The guarantees of this group are both positive and negative. The positive guarantees affirm the individual's rights to religious liberty and the means of education, freedom of speech, a legal remedy for an injury received, indictment by a grand jury if he is accused of crime, trial by jury, and speedy justice in case of indictment.[2] The negative guarantees deny the government's power to permit slavery, to impose cruel and unusual punishments, to allow unreasonable searches and seizures, to imprison persons for debt, or to grant hereditary honors and privileges.[3]

25. Structural Features of the Constitution

The "bill of rights" forms but a small part—though a very important part—of the constitution of Ohio. Its

[1] *Constitution of Ohio* (1851), Art. I. §§ 1-4, 18-20.
[2] *Ibid.*, Art. I. §§ 5, 7-11, 16.
[3] *Ibid.*, Art. I. §§ 6, 9, 12-14, 15, 17.

guarantees are summed up in a single article of that instrument, Article I. The other fifteen articles or divisions relate to the form and structure of the government, the methods by which it is organized and carried on, and the distribution of political powers among its several parts.[1] In the next three chapters we shall be especially concerned with the structural features. These may be briefly set forth here in order that we may have the working plan of the government before us, and see the order in which the different features are to be treated.

Manhood suffrage, the basis of political authority.

In the first place the constitution settles what part of the people of the State shall have a voice in electing the officers and determining the policy of the State. Our government is republican in form, that is, it is conducted by representatives of the people on principles agreeable to the governed. But not all of the people share in the exercise of political powers. Speaking generally, this prerogative is reserved to men through the right to vote given them by the constitution. Thus manhood suffrage is made the basis of political authority, and may be accounted the underlying feature of our governmental structure.

The central government

In the next place, the work of governing is entrusted to the central government and the various local governments of the State. This insures system and efficiency in the carrying out of the popular will. The central government of Ohio, as of the other States, consists of three divisions or branches, legislative, executive, and judicial. This arrangement was derived from the thirteen colonies, in each of which there was a legislature, a governor and other executive officers, and judges;

[1] The most important parts of the constitution are printed in Appendix B, § 90.

and the colonial institutions were, of course, brought from England. The legislative branch comprises a Senate and House of Representatives, which together make the laws to meet the needs of the people. The executive branch consists of the governor and other officers entrusted with the enforcement of the laws passed by the legislature. The judicial branch, comprising a supreme court and other inferior courts, interprets the laws, and applies them to special cases in which disputed rights are involved.

local rnments. The local governments are the governments of the various districts into which the territory of the State is divided. These governments belong to two groups, rural and urban. The former comprises counties and townships; the latter, cities and villages. The officers of both these groups belong to the legislative, executive, or judicial branches of their respective local governments. Thus we see that the scheme of threefold division of powers is carried out consistently in the work of local administration as in that of the government of the State itself. The officers of local districts are, however, something more than mere local functionaries. Their districts are administrative divisions of the State, in which the general laws of the Commonwealth must be applied. It is, therefore, a part of the business of the local officers to enforce the State laws in their districts. In this sense they are agents of the State, and hence on taking office they are required to take an oath to support the constitution and laws of the State.

eral ures. We have now summed up the general features of the political organization under which we live. We have seen that the republican form of our institutions involves the expression of the people's will by means of

the ballot; that the various powers are divided between the central government and the local governments; that the functions of both central and local governments are entrusted to three sets of officers representing the people; and that the local officers deal not merely with the interests of their own districts, but assist in administering the general laws of the State. We shall next take up these various structural features for more detailed consideration.

CHAPTER IV

CITIZENSHIP AND THE SUFFRAGE

26. REFERENCES

Wilson, *The State,* secs. 1119-1125 (on citizenship under the State and under the Nation); Johnson, *Cyclopedia,* "Citizenship," "Naturalization;" Lalor, *Cyclopaedia of Political Science,* "Naturalization;" Bryce, *American Commonwealth,* II., Part III., "The Party System;" Hart, *Actual Government,* ch. 4, "Suffrage and Elections," ch. 5, "The Party and the Machine;" Lawton, *The American Caucus System;* Remsen, *Primary Elections* (Questions of the Day Series); also *Suffrage and the Ballot;* Dallinger, *Nominations for Elective Office;* McMillan, *The Elective Franchise in the United States;* Cooley, *Constitutional Limitations,* ch. 17, "Expression of the Popular Will;" Woolsey, *Political Science,* Part III., ch. 3, "State, Sovereignty, People;" Goodnow, *Politics and Administration,* ch. 9, "Responsibility of Parties;" Bluntschli, *Theory of the State,* Eng. trans., Book VII., "Sovereignty and its Organs, Public Services and Public Officers;" Wigmore, *The Australian Ballot System.*

Constitution of the United States, Amendment XIV. § 1; *Constitution of Ohio* (1851), Art. V., "Elective Franchise;" Bates, *Annotated Statutes of Ohio,* I., 1616-1716, "Elections."

27. CITIZENSHIP

Citizens.

We speak of "the people" as the source of political power in the State. But we are well aware, if we reflect a moment, that we do not mean *all* of the people when we thus speak. Would it be correct to substitute "citizens" for "the people"? Let us see. Citizens are persons who, either by birth, or by a legal process, called

naturalization, come to owe allegiance to the government, and are entitled to protection from it. This definition makes no distinction as regards age, sex, or color. It does, however, distinguish between native-born and naturalized citizens. The former are persons born within the State, of parents subject to the authority of the State. The latter are persons of foreign birth who have acquired by due process of law the same rights and immunities as belong to native-born citizens.

Double citizenship.

The Federal Government has not left the regulation of citizenship altogether to the individual States. It has enacted a general law in regard to naturalization. Furthermore, the Federal Constitution says that every citizen of the United States, native or naturalized, is also a citizen of the State in which he lives.[1] Thus it recognizes a sort of double citizenship, corresponding to the double character of the government. The citizen is under the protection of both the Federal and the State government, he owes allegiance to both, and must obey the laws of both. As the State is subordinate to the United States, so the citizen's allegiance to the former is subordinate to his allegiance to the latter.

28. The Elective Franchise

Difference between "citizens" and "voters"

All of the citizens of the State are entitled to *civil rights*, that is, the rights which the law affords in respect to their persons and property. The power to vote is not included here, and must be set down as a *political privilege*. This privilege is conferred only on those persons designated in the constitution and in laws consonant therewith. These persons are the qualified vot-

[1] *Constitution of the United States*, Amendment XIV. § 1.

ers. They form "the political basis of government," and may be regarded as the political agents of the whole people.

Qualifications of voters.

The constitution of Ohio confers the suffrage on every white male citizen of the United States, who has attained the age of twenty-one years, has been a resident of the State one year next preceding the election, and of the county, township, or ward, such time as the law provides.[1] The period of residence fixed in law for the smaller political areas is thirty days for the county, and twenty days for the township. This safeguards the ballot by giving time for a person to become known, and by preventing people from moving into a doubtful district for a few days in order to decide an election. Students in institutions of learning and inmates of charitable institutions who fulfill the residence requirements mentioned above, and are of legal age, are entitled to vote in the ward and precinct where they reside, if they so desire. In general it may be said that the place of voting in the case of such persons is determined by their choice of residence. The only persons who are excluded from the privilege of voting are idiots, insane persons, and persons convicted of an infamous crime.[2]

Extension of the franchise.

The restrictions implied in the words "white" and "male" no longer hold. The franchise was extended to colored men by the adoption of the Fourteenth and Fifteenth Amendments to the Federal Constitution in 1868 and 1870 respectively. It was further extended to women in school elections in 1894. The law now provides that women who possess the qualifications required of men, and are native-born or are the wives or daughters of

[1] *Constitution of Ohio* (1851), Art. V. §§ 1, 2.
[2] *Ballot Election Laws of Ohio*, 1901, pp. 56, 57.

citizens of the United States, may vote and be voted for for member of the board of education.

The voter and the party.

Most of the voters of the State are members of political parties. Each voter is free to identify himself with any party or to join no party at all. Indeed, a political party is nothing but a voluntary association of voters who hold similar opinions on public questions, and seek to promote those opinions by concerted action at public elections. The political opinions or principles of the party are expressed in the party "platform"; and the candidates nominated by the party are expected to put these principles into practice as far as possible if elected. For the purpose of awakening public interest in current political questions or "issues," influencing public opinion, and electing its candidates, the party conducts a vigorous "campaign" for several weeks before election day.[2] In all these ways the party plays an important part in popular government, and is serviceable as a piece of our political machinery. It is therefore recognized by law. It is when the party descends to corrupt methods, and is used for personal instead of public ends, that it becomes a dangerous device. When this occurs it is within the power of the voter to withdraw his support from his party, and give it to some other that more nearly represents his views, or to join with other independent voters in the organization of a new party, or the nomination of independent candidates.

Party organizatio

The efficient performance of its work requires that each party shall maintain an organization. This organ-

[1] The extension of the franchise to women has been sustained by the courts on the ground that it will encourage schools and the means of education, and is therefore in keeping with Article I. § 7, of the State constitution. *School Code*, § (3970-12).

[2] See Remsen, *Primary Elections*, 11.

ization consists of a system of committees. There is a committee for the State, one for each of the districts, counties, cities, and townships, and where the organization is complete, committees also for the villages and wards. The right of nominating candidates is restricted by law to those parties that polled at least one per cent. of the entire vote cast in the State at the last preceding general election.[1] The various committees manage party interests in their respective areas under the general direction of the State central committee of the party. This committee system does not preclude the possibility of some local party leader's getting control of the committee in his district and assuming the role of a local boss. In fact, even the State committee may be dominated by a party autocrat and State policies and candidacies thus be largely determined by the will of one man. When such a thing happens, the rank and file of the party are mainly responsible for it. It has been well said that "in a commonwealth of free voters, no party leader can long retain his position" without their acquiescence.

29. Nomination of Candidates

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tions
he voter.

The citizen who is a voter sustains a special relation to the political affairs of the State. He bears a direct responsibility for the character of the government under which he lives, because his ballot gives him a voice both as regards local and State administration. If he does his duty, he exercises his political power in several ways: first, he votes on such proposed public improvements as may be submitted to the people; second, he votes on certain political questions, as in the case of constitutional

[1] Bates, *Statutes*, §§ 2916-2918.

amendments, or the proposal to call a constitutional convention; third, he helps to nominate candidates for public office; and, fourth, he shares in the election of these persons. The ordinary functions of the voter, however, are found in the nomination and election of public officers.

Party nominations.

The laws of the State recognize two methods of making nominations: one, by primary elections which make nominations directly, or choose delegates to a nominating convention; the other, by petition or nomination paper. Nominations are usually made by the "primary" and the "convention," which are the party agencies for this purpose. Only those parties are entitled to make nominations that secured the requisite number of votes at the last preceding general election, that is, one per cent. of the entire vote cast in the State. The persons thus nominated are the regular candidates of their party.

The primar

The "primary" is a meeting of the qualified voters of a single party in an election district. It is called by the party committee of the district at least ten days before the date of the primary, and is under the control of the supervisors of elections, who assign a clerk and two judges of the proper party, to conduct the primary. These officers receive the votes for candidates or for delegates, as the case may be, and send the returns to the supervisors.[1]

Convention

The "convention" is an assembly of delegates representing the party in the city, county, district, or State, convened for the purpose of nominating the proper officers and transacting other party business. The party

[1] The expense of municipal primary elections is met by the municipality, that of all other primary elections by the county: *Bronson Primary Election Law*, § 2919.

committee for the area concerned fixes the date of the convention, and the chairman of the committee calls the assembly to order. The procedure by which conventions are governed will be sufficiently illustrated by a brief description of the procedure in county and State conventions.

Procedure in a county convention.

The first step is the effecting of a temporary organization by the election of a chairman and a secretary. A committee on credentials is then appointed in the county convention to ascertain what delegates are present and entitled to seats. This committee makes a report, which is usually accepted. Next, it is customary to pass a motion making the temporary organization permanent. Nominations for the various offices are now in order, and a committee is appointed to receive and count the ballots. When there is no contest for a particular nomination, the candidate is chosen by acclamation. After the candidates have been nominated, the convention transacts routine business, and then adjourns *sine die.*

Procedure in a State convention.

The procedure in a State convention is more elaborate than that in a county convention. The temporary organization is, of course, first effected; but the State convention has three important committees instead of one. These are the committees on credentials, permanent organization, and resolutions, each of which usually consists of one member from each congressional district selected in district caucus. The permanent officers of the convention are nominated by the committee on permanent organization and elected by the convention. The president is the most important of these officers and on taking the chair delivers a speech in which he "sounds the key-note of the campaign." Then the committee on credentials makes its report, and the committee on reso-

lutions presents the party platform for adoption. The convention now proceeds to the nomination of State officers, beginning with the highest officer first. A committee to count the votes is appointed, and successive ballots are cast until one of the candidates receives enough votes to nominate him. The same method is followed in the case of the other officers until the ticket is complete. In presidential years, it is a part of the business of a State convention to select four delegates-at-large, together with two delegates from each congressional district in the State, to the national party convention.

Independent nomination

The methods of nomination thus far described are those employed by political parties. But the electors are not required to vote for the regular party nominees. They may choose independent candidates. This is done by preparing a "nomination paper," which must be signed by a certain minimum number of voters. This number varies according to the grade of the district. For nominations to State offices, or offices of any district larger than the county, the number of signers must not fall below one per cent. of the vote of the State or district at the last general election, except in Hamilton and Cuyahoga counties, where two per cent. is required. At least three hundred signatures are required for a candidate for county office, fifty for a candidate for city office, and twenty-five for a candidate in the township, village, or school district. Each signer pledges himself to vote for the person named in the paper.[1]

Preparation of ballots.

The nominating bodies must promptly file certificates of the nominations made,—with the secretary of state for presidential electors and State officers, but with the board of supervisors of the proper county in all other

[1] *Election Law* of 1904, § (2966-20), sec. 7.

cases. The names of persons nominated for office in the districts to which a county belongs and of those nominated for State offices are also certified to the county board. Each county board arranges the names of the candidates of the different parties in parallel columns, each headed by the party device, with blank spaces in which the voter may write the name of any person not regularly nominated. The lists of names thus arranged and printed form the Australian or blanket ballot, as shown in the accompanying cut.[1]

stribution ballots.

The county board has the ballots printed and bound into books, and then distributes them, together with cards of instruction, poll-books, and tally sheets, to the precinct officers in the county. The ballots must be delivered not less than three days before election.

30. Machinery and Conduct of Elections

me of ctions.

The law declares that all elections must be by ballot, and provides the necessary officers and machinery for the conduct of elections. It also fixes the time for elections. The general elections for State and county officers are held on the first Tuesday after the first Monday in November. Most of the State officers are chosen in the odd-numbered years, and presidential electors every fourth year counting from 1880. The township and municipal elections are also held in November under the new Chapman Law.[2] The law further provides that the

[1] *Election Law* of 1904, § (2966-22) ff. The ballots have been prepared under the Australian ballot system since 1891.

[2] *Ibid.*, §§ 2978, 2968, 1442, 1723; Chapman Law, § 222.

[Main stub.]
Consecutive number .....
Name of voter .....
Residence .....
(Perforations)
[Secondary stub.]
Name or registered number of voter .....
(Perforations)

Device.	Device.	Device.
Republican Ticket.	Democratic Ticket.	Prohibition Ticket.
For Governor, Name.	For Governor, Name.	For Governor, Name.

SAMPLE AUSTRALIAN BALLOT

polls shall be kept open from half-past five in the morning until half-past five in the evening.[1]

fficers and oards of lection.

The elections are conducted by a number of officers and boards. The secretary of state is the State supervisor and inspector of elections, and appoints four deputy State supervisors for each county, two from each of the two parties casting the largest vote at the last November election. The supervisors for each county constitute a board which not only regulates primary elections, but supervises registration and arranges the voting districts or precincts within its area so that each shall contain as nearly as possible two hundred voters. These boards also appoint the precinct officers who preside at the polls on election day. We have already seen that the county boards prepare the ballots, and distribute them together with the poll-books, tally-sheets, etc., to the precinct officers.

egistration f voters.

In cities with a population of 14,000 or over, voters are required to register before they may cast their ballots.[2] This is done to prevent fraudulent voting. In such cities two registrars and a clerk are appointed for every precinct. These officers record the names of applicants entitled to vote in the precinct, on days designated for that purpose. In the larger cities a general registration is held every year on four days before the fall elections; in the smaller cities only once in four years on the appointed days preceding the presidential

[1] In Cleveland and Cincinnati the polls close at 4 p. m.

[2] Bates, *Statutes*, § 2926*a*. The present registration law, passed in 1904, requires registration in Cleveland, Cincinnati, Columbus, Toledo, Dayton, Youngstown, Akron, Springfield, Canton, Hamilton, Zanesville, Lima, Sandusky, Newark, Portsmouth, Mansfield, Finlay, East Liverpool, Lorain and Steubenville.

election; but in the latter case there is an additional yearly registration for new voters, and indeed no election is allowed to pass without an opportunity for registration. On the registration days the places of registration are open from eight A. M. to two P. M., and from four to nine P. M. Those kept from registering on the regular days by sickness, physical disability, or enforced absence from the city, are permitted to register by affidavit. If the right of an applicant to register is doubted, he may be challenged by any elector present, and must then take oath to his right to register and vote in the precinct.[1]

Lists of registered voters.

Certified lists of the registered names are submitted to the board of supervisors, and these lists are copied into the books to be used by the precinct officers at the approaching election. Two printed copies of the list of voters of the precinct must be posted up at the polling place at least three days before the election.[2] This makes possible the detection of mistakes or fraud in registration.

Election places and furniture.

The places of registration and holding elections are appointed by the board of deputy State supervisors, which also provides the proper furniture and supplies. The supplies include registers, maps, oaths, certificates, and blanks of various kinds. The furniture for the voting or polling places consists (1) of a sufficient number of voting shelves at which electors may conveniently mark their ballots behind screens which

[1] Certificates of removal are supplied to heads of families moving to another precinct after the time for registration is past, and also to voters who have registered in the wrong precinct by mistake.

[2] *Election Law* of 1904, § 2926*l*.

protect them from the observation of others; (2) a guard rail so placed as to prevent all persons, except the officials inside of the rail, from approaching within six feet of the voting shelves; and (3) the ballot box, which is also inside of the rail, and in which the elector deposits his vote before passing outside. The law permits the officers who provide the election supplies to submit the question of using voting machines to the electors of their respective districts. If the question carries, voting machines are thereafter used in the districts adopting them.[1]

he precinct ficers and eir duties.

The precinct officers consist of four judges and two clerks of election, who are appointed annually. Not more than two of the judges and one of the clerks may belong to the same political party. These officers open the polls at five-thirty A. M., and if any judge or clerk is absent, a substitute is chosen by the bystanders. One of the judges has charge of the ballots and delivers them to the voters; another judge receives the ballots after they have been marked by the voters in the booths, and deposits them in the ballot box; each of the remaining judges has a list of the electors of the precinct on which he checks off those who have voted. Each of the clerks is supplied with a poll-book in which he writes the names of the persons voting.

hallenging voters.

Anyone suspected of being disqualified to vote in a given precinct may be challenged by the judges, by an elector, or, in city precincts, by a party challenger appointed by the party committee. This committee has

[1] Bates, *Statutes*, §§ (2966-54). In case, however, sixty-five per cent. of the electors petition for voting machines, the election officers are instructed to provide the machines without submitting the question to vote: *Ohio Laws*, vol. 95, 419-421.

also the right to designate one "witness" to serve in each voting place to see that the election is conducted regularly.[1]

Voting.

The elector votes a "straight ticket" by placing a cross in the circle at the head of the list of his choice. Otherwise he must make a cross in the blank space to the left of the name of each candidate for whom he votes; or he may substitute names himself and vote for them in the same way. The vote is not rejected on account of technical errors unless it is impossible to determine the intention of the voter.[2] Persons unable to write may receive aid from a precinct officer.

Canvassing the votes.

At the closing of the polls the number of persons who have voted as shown by the poll-books is set down at the foot of the poll-books, and the books are signed by the judges and attested by the clerks. Then the ballot-boxes are unlocked and the judges proceed to read off the ballots while the clerks keep tally or count for each of the candidates, and the results are recorded and proclaimed to the people present. The judges then burn the ballots in the presence of the clerks, except such as are of doubtful legality. These must be sealed up and sent to the county board with the returns of the election for investigation, that is, to be canvassed.[3]

Local canvassing boards.

One set of returns is immediately sent to the county board of supervisors, and another to the township or municipal clerk, as the case may be. During the counting of the votes the precinct officers must not separate. The county board acts as a board of canvassers for its own county, but has nothing to do with the returns for

[1] *Election Law* of 1904, § 2926*u*.
[2] Bates, *Statutes*, § 2966-35.
[3] *Election Law* of 1904, § (2966-39), sec. 24.

township and municipal officers, which are canvassed by the township or city clerk. The returns for boards of education are canvassed by the clerks of these boards. Each county board makes an abstract of its own returns, and transmits a copy of them to the secretary of state; but in cases where two or more counties form a larger district, the returns of the district election go to the board of the most populous county, which sends them with its own returns to the same State official.[1]

anvassing ıe votes for tate officers.

The county boards also send copies of the returns for the executive officers of the State to the president of the Senate at Columbus, and he publishes them during the first week of the session of the legislature. If, however, the legislature is not in session, the governor and secretary of state canvass the votes for these officers in the presence of two judges of the supreme court; they also canvass the returns for other State officers, and for representatives to Congress.[2]

ertificates f election. ommissions.

After the results of the election have been discovered and published, certificates of election are issued to the successful candidates. The certificates for district or circuit officials are issued by the board of supervisors of the most populous county in the district; those for county officers by the county board, and those for presidential electors by the governor.[3] One step more remains to be taken before the officer-elect is permitted to assume the duties of his office. He must file his certificate of election with the secretary of state, and the gov-

[1] *Election Law* of 1904, § (2966-40); Bates, *Statutes*, §§ (2966-8), (2926*w*-4), 2994.
[2] *Ibid.*, §§ (2966-8), 2980, 2983-2986; *Constitution of Ohio* (1851), Art. III. §§ 3 and 4.
[3] *Ibid.*, §§ (2981-1), 2994, (2966-8), 2970.

ernor thereupon issues him his commission. This rule applies in the case of State and county officers and justices of the peace.

Contested elections.

It sometimes happens that the declared result of an election is not accepted by a candidate whose defeat has been announced. He may believe that there has been a wrong count, or that the election has been fraudulently conducted. The remedy lies in contesting the election and demanding a revision of the result if fraud or mistake be proven. Different tribunals have been designated by law to settle the question for different classes of offices. The claim of a nominee for justice of the peace is contestable in the probate court; that of a candidate for county office in the court of common pleas; that of a candidate for State office or any of the judgeships before the upper branch of the legislature; and finally that of a nominee for State senator or representative before the house to which the election is claimed.[1]

Protection of the ballot.

It is essential in a free government like ours that the ballot be protected. This fundamental principle is recognized in the general laws relating to the conduct of elections. It has been already pointed out that certain provisions in these laws are intended to prevent fraudulent voting. Such are the provisions fixing a residence requirement for the voter, making registration necessary in populous centers, requiring the posting of the lists of registered voters in city precincts, affording opportunity to challenge the suspected voter, and requiring the canvassing of the election returns. The Australian ballot law was adopted for the express pur-

[1] Bates, *Statutes*, §§ 2997-3022.

pose of enabling the elector to enjoy perfect secrecy in voting. These general provisions looking toward the safeguarding of the ballot were supplemented by the enactment of the Corrupt Practices Act in 1896, which undertook to limit the expenditures and contributions of candidates for office, and to regulate the collection and disbursement of campaign funds by political committees, to the end of preventing bribery in elections; but this act was repealed in 1902. However, the new election law, passed in 1904, declares it to be the duty of the boards of deputy State supervisors that are in charge of city elections to investigate and prosecute all violations of the laws relating to the registration of voters, the right of suffrage, and the conduct of elections, and to report the same to the State supervisor and inspector of elections.[1]

[1] *Election Law* of 1904, § (2966-8), sec. 8.

CHAPTER V

THE CENTRAL GOVERNMENT OF THE STATE

31. References

Bryce, *American Commonwealth,* ch. 40, "The State Legislatures," ch. 41, "The State Executive," ch. 42, "The State Judiciary;" Wilson, *The State,* secs. 1126-1208, "Central Government of the State;" Fiske, *Civil Government in the United States,* ch. 6, "The State Governments;" Hinsdale, *American Government,* ch. 51, "The State Legislatures," ch. 52, "The State Executives," ch. 53, "The State Judiciary;" Hart, *Actual Government,* ch. 7, "State Legislatures," ch. 8, "State Executives," ch. 9, "State Courts;" Bluntschli, *Theory of the State,* Part III., ch. 7, "Modern Principle of Division of Powers;" Cooley, *Constitutional Limitations,* ch. 5, "Powers which the Legislative Department may Exercise," ch. 6, "Enactment of Laws."

Constitution of Ohio (1851), Art II., "Legislative," Art. III., "Executive," Art. IV., "Judicial," Art. XI., "Apportionment;" Bates, *Annotated Statutes of Ohio,* I. 62-78, "Legislative;" 79-280d, "Executive;" 281-384b, "Judicial;" *Manual of Legislative Practice.*

32. The Legislative Department

The central government and the local governmen

The business of governing the State is entrusted to the officers, elective and appointive, of both the central government and the local governments of the State. In truth, we may say that the officers who supervise the general interests of the State as a whole constitute the "central government," and that the sets of officers who supervise the special interests of the counties, townships,

and municipalities constitute the "local governments." Both the State and local officers are the agents of the people, and are responsible to the voters of the State for the faithful performance of their duties.

anches of central ernment.

The central government of Ohio, as of the other States, consists of three branches, legislative, executive, and judicial. This is only saying that the officers of our central government are divided into three groups according to the kind of duties they have to perform. Those officers whose business it is to make laws for the regulation of public affairs and the protection of the rights of persons and of property make up the "legislative branch." Those who enforce the laws and maintain public order form the "executive branch." And those who interpret the laws and apply them in the settlement of disputes constitute the "judicial branch." This distribution of functions is carried out in the case of the officers of our local governments, but not so completely as in the case of those forming the central government of the State.

o houses the islature.

The legislative branch of the central government consists of two houses—the Senate and the House of Representatives. The members of both houses are elected at the general State election on the first Tuesday after the first Monday in November in the odd-numbered years, and both senators and representatives are chosen for a term of two years.[1] In the case of the House of Representatives they are chosen from the counties, which constitute "representative districts" for this purpose. These districts send up representatives in proportion to their population, the ratio of representation being fixed arbitrarily by dividing the whole population

[1] *Constitution of Ohio* (1851), Art. II. § 2.

of the State by 100. Additional representation is also allowed to counties for fractional ratios. In case the population of a county falls below a ratio, it, nevertheless, is entitled to one representative. This is the provision incorporated in the constitution by one of the amendments adopted at the election in November, 1903. The effect of this amendment will be to give eight counties a representative apiece, and so increase the membership of the lower house to that extent. This change will not take place until 1905. At the present time the lower house has one hundred and ten members.[1] In the case of the Senate, the members are chosen from thirty-four larger districts, embracing in most cases two or three counties, but sometimes four or five. These are called "senatorial districts," and the number of senators to which each is entitled is found by means of a ratio obtained by dividing the population of the State by 35. Every ten years, shortly after the taking of the Federal census, a new apportionment is made by the governor, State auditor, and secretary of state, who ascertain the ratio, and publish the number of representatives and senators belonging to the various districts.[2] The upper house now has thirty-two members.

Qualification of members.

The qualifications for membership in the legislature differ but little from those for manhood suffrage. Every male citizen of the United States who is twenty-one years of age, has been a resident of the State for one year next preceding the election, and of the district from which he is chosen for the same period, may be elected

[1] *House Joint Resolution No. 39*, passed May 6, 1902; *Constitution of Ohio* (1851), Art. XI. §§ 1-5.

[2] *Constitution of Ohio* (1851), Art. XI. §§ 6-11. For a list of these districts, see Appendix C, § 92.

a member of the legislature. The constitution adds, however, that a person is ineligible who holds an office under the United States Government, or a lucrative position under the State, except township officers, justices of the peace, notaries public, and officers of the militia. Persons convicted of embezzlement of public funds are also excluded. The enforcement of these conditions is left to the two houses, the constitution providing that "each house shall be judge of the election returns, and qualifications of its own members."[1]

rivilege f members.

Senators and representatives are privileged from arrest during sessions of the legislature, and while traveling to and from the sessions. But this privilege does not extend to cases of treason, felony, or breach of the peace; nor does it relieve members from being served at any time with a summons or notice to appear. Moreover, a member cannot be questioned in any other place on account of any speech or debate in either house.[2]

essions.

The legislature or general assembly meets at the capitol in Columbus on the first Monday of January in even-numbered years. Biennial sessions are provided for in the constitution, but this requirement was evaded by holding an "adjourned session" in each odd-numbered year until 1895. Since then there have been no adjourned sessions.

rganization f the gislature.

The two houses meet for the purpose of organizing at ten o'clock A. M. on the day appointed for the beginning of the regular session. In organizing only

[1] *Constitution of Ohio* (1851), Art. V. § 1; Art. II. §§ 3, 4, 5, 6. Exclusion for embezzlement applies to all offices in the State.

[2] *Ibid.*, Art. II. § 12; Bates, *Statutes*, §§ 5457, 5459.

those are permitted to take part who hold certificates of election from the proper county officer. The lieutenant governor is president of the Senate. The secretary of state, or, in his absence, the State auditor, serves as presiding officer of the House of Representatives during the process of organization. These presiding officers call the roll of members of their respective houses, and the members respond by presenting their certificates and taking the oath of office. Each house then elects its officers, choosing them from the political party that has a majority in the house. In the Senate these consist of a president *pro tempore* to serve in the absence of the president, together with a clerk, sergeant-at-arms, and their assistants. There are also a number of pages or errand boys, stenographers, porters, and doorkeepers. The House has a similar body of officers and employees, but its presiding officers are known as the speaker and the speaker *pro tempore*. The appointment of legislative committees to consider and report on the various classes of bills introduced is an essential feature of the organizing process. In the Senate these committees are elected and number thirty-nine; in the House they are appointed by the speaker and number forty-five. They consist of from five to seven members in the Senate and of from seven to nine members in the House, and are designated by the names of the subjects assigned them. Among these subjects are the judiciary, finance, municipal corporations, county affairs, railroads and telegraphs, agriculture, universities and colleges, manufactures and commerce, mines and mining, taxation, etc. Proposed measures relating to these subjects are referred to the proper committees for con-

sideration before being brought before the house.[1] Special committees to deal with special subjects may be appointed by the presiding officer or chosen by the house. Each house adopts its own rules of procedure and is judge of the qualifications of its own members. A majority of each house constitutes a quorum to transact ordinary business, but a two-thirds vote is required in special cases.

33. Procedure in the Enactment of Laws

Method of passing bills.

Either house may originate proposed laws (commonly called bills), but a law proposed in one house may be altered, amended, or rejected in the other; and both houses must adopt them to make them laws or acts. The governor is at liberty to suggest measures to the legislature in his message, which is read to the two houses at the opening of the session. But the houses need not follow his suggestions. Under regulations contained in the constitution and the rules of the two houses, a bill passes through three stages on its way to become a law. (1) The member introducing the bill sends it to the clerk to be read to the house. The bill is then printed and usually referred to the appropriate committee, though this is not done in cases of urgency. The committee in due course reports it back for adoption in its original or amended form if they approve, or recommend that it be not adopted if they disapprove. Before passage all bills must be publicly read on three different days, unless the house dispense with this rule by a three-fourths vote. When the measure comes up for its third reading it is discussed and per-

[1] For a full list of committees, see the *Manual of Legislative Practice* for 1901.

haps amended, and the vote is taken on its passage. (2) After adoption in the house in which it originated the bill must go through the same process in the other house. If amended in this second stage of its career, the originating house must concur in the amendments; otherwise the measure can only be saved by a compromise reached through a committee of conference made up of three members from each house. (3) The third and final stage of a successful bill is the purely formal one in which it is "enrolled," that is, legibly copied, by the clerk of the house in which it originated, and is signed by the presiding officer of each house in the presence of the members. The measure is now a law, and the enrollment copy is deposited with the secretary of state for safe-keeping.

Devices to prevent hasty legislation.

Hitherto in Ohio the power to veto laws has been withheld from the governor, but at the recent general election (November, 1903), an amendment to the constitution giving him this power was adopted, by virtue of which the governor may not only veto a bill as a whole, but any section, or item of appropriation of a bill. In order to become a law over the governor's veto, a bill or any part of it which has been vetoed must be passed again by the votes of two-thirds of the members-elect of each house, provided such votes be not less than the bill received in each house on its original passage.[1] In practice the veto power has been found to serve as a check on hasty and corrupt legislation. There are, however, other constitutional provisions intended to supply the same sort of check. These require the reading of every

[1] *Senate Joint Resolution, No. 23,* adopted May 2, 1902. The governor has the veto power in all the States except Rhode Island, Delaware, and North Carolina.

bill on three different days, the recording of the vote of every member, and the prohibition of secret sessions in either house unless two-thirds of those present deem them necessary.

udicial inctions f the gislature.

The legislature is forbidden to grant divorces or exercise any judicial power not conferred in the constitution. Its one judicial function is the impeachment and trial of State officers for misdemeanors in office. The House of Representatives has the sole right of impeachment or indictment, a majority vote of all the members being required. The charges thus brought are tried by the Senate sitting as a court of justice; and a two-thirds vote of this body is necessary to conviction, which results in removal from and disqualification for any office under the authority of the State. The person impeached, whether convicted or not, may be indicted and tried upon the same charge before the regular courts. In dealing with its own members either house may expel a member for cause by a two-thirds vote.[1]

34. Restrictions on the Legislature

eneral strictions.

The authority of the legislature to make laws may be exercised for all the purposes of government, except in so far as these are expressly denied or limited by the constitution of the State or by the Constitution of the United States.[2] In this respect the law-making power of the legislature stands in contrast with that of Congress. Congress may legislate only on certain specified subjects; the State legislature may legislate on any

[1] *Constitution of Ohio* (1851), Art. II. §§ 9, 10, 13, 16, 32, 23, 24, 8.

[2] For the range of the legislative functions of a State, see Wilson, *The State*, 487.

subject not prohibited. It goes without saying that the legislature may not enact a law repugnant to the Federal Constitution. Such a law if passed would be declared null and void by the courts.

Restrictions contained in the State constitution.

Other kinds of laws are forbidden by our State constitution. In considering these we shall follow the classification suggested by Professor Bryce.[1] In the first place the constitution forbids "statutes inconsistent with democratic principles." The bill of rights contains a number of these prohibitions; for example, those against the conferring of hereditary honors and privileges.[2] In the second place, it forbids laws inconsistent with public policy, such as retroactive laws, laws impairing the obligations of contracts, or any law creating a poll tax.[3] In the third place, the constitution places its prohibition on "statutes special or local in their application."[4] And, in the fourth place, it denies the right of the legislature to do certain things in the way of fiscal legislation, namely, (*a*) to create a State indebtedness of more than $750,000, excluding, however, debts incurred on account of war, invasion, or insurrection; (*b*) to create any debt at all for purposes of internal improvement; (*c*) to loan the credit of the Commonwealth to any private association; (*d*) to assume the debts of any county, township, municipality, or other corporation; and (*e*) to permit any local government to become a stock-holder in any company.[5]

[1] Bryce, *American Commonwealth*, I., 470.

[2] *Constitution of Ohio* (1851), Art. I. § 17. This is also forbidden by the Constitution of the United States.

[3] *Ibid.*, Art. II. § 28; Art. XIII. § 7; Art. XV. § 9; Art. XII. § 1; Art. XV. §§ 5, 6.

[4] *Ibid.*, Art. XIII. §§ 1, 2.

[5] *Ibid.*, Art. VIII. §§ 1, 2; Art. XII. § 6; Art. VIII. §§ 5, 6.

35. The Executive Department

Executive department of the State.

The executive department of the government consists of a number of elective and appointive officers, and numerous boards and commissions, most of which are appointed. These officers and boards are authorized to enforce the laws which the legislature has passed. They therefore share the executive power among them, and are responsible under the law for the faithful performance of their duties. It should not be forgotten, however, that the governor's responsibility is increased by virtue of his extensive appointing power. With the consent of the Senate, he appoints a large number of administrative officers and boards, who are directly responsible to him, and may be removed by him for cause.[1]

Governor and lieutenant governor.

The governor is the chief executive officer of the State. He is elected by the people for a term of two years. He must be a citizen of the United States, at least twenty-one years old when elected, and a resident of the State for the year preceding his election. His general duty is to see that the laws are executed, and he may call out the militia for this purpose in cases of emergency. He is commander-in-chief of the military and naval forces of the State, except when they are called into the service of the United States. We have already seen that his power of appointment and removal is extensive. Besides appointing a variety of administrative boards and officials with the consent of the Senate, he fills vacancies in certain offices. By "message" he informs the legislature at every session as to the condition of the State, and recommends measures for its consideration. He may convene the legislature on ex-

[1] For a list of State officers, see Appendix D, § 96.

traordinary occasions, and adjourn it when the houses cannot agree on a time for adjournment. He also has the veto power, and is thus vested with an important legislative function. He exercises a kind of judicial power in the granting of reprieves and pardons to convicted criminals on the recommendation of the State board of pardons,[1] but the governor's pardoning power does not extend to cases of treason and impeachment. In case of the governor's death, resignation, or disability, the lieutenant governor succeeds him in office. The lieutenant governor has the same qualifications as the governor, and is elected by popular vote. His customary duty is to preside over the Senate. Should the lieutenant governor succeed to the governorship and then become incapacitated, the constitution provides for the succession of the president of the Senate, and after him the speaker of the House of Representatives.[2]

Other elective officers.

Besides the governor and lieutenant governor there are six other important executive officers elected for various terms. Of these the secretary of state, attorney general, treasurer of State, and dairy and food commissioner are chosen for two years; the auditor of State for four; and the commissioner of common schools for three. (1) The secretary of state has charge of the State laws and documents and the official bonds of many public officers; he publishes the laws and statistics of the State and the returns of State elections; he is the supervisor of elections; affixes the great seal of the State to public documents for authentication, and is the vehicle of communication with other States and with the United States. (2) The auditor is the chief accounting officer of the

[1] See page 182.

[2] *Constitution of Ohio* (1851), Art. III. §§ 15, 16, 17.

State, and as such keeps records of all its financial tran actions; ascertains the amount due the State from th counties, and makes settlements with the county trea urers and other authorities; issues warrants for a payments made or received by the treasury; sees th revenue claims are prosecuted; serves on various fina cial boards; and has custody of the public land record (3) The treasurer is custodian of the money of th State, making payments only on warrants issued by th auditor in accordance with appropriations voted by th legislature. He publishes monthly statements of ba ances, besides an annual statement of all receipts an disbursements. (4) The attorney general is the chief la officer for the State and its departments, and couns for the State in civil and criminal suits. He enforc the performance of charitable trusts; prepares forms c contracts for the use of State officers; and serves o various boards. (5) The commissioner of commo schools exercises an advisory supervision over the pub lic schools of the State; sees that the school funds ar legally distributed; visits each judicial district annuall for purposes of conference with school boards an teachers; lectures before teachers' institutes; appoint the State board of examiners; and issues an annual re port on the condition of the schools. (6) The foo and dairy commissioner enforces all laws against th adulteration and fraudulent labeling of foods, drink or drugs.

Appointive officers.

The administrative needs of the State have led to th creation of a number of additional offices, which a filled by the governor with the consent of the Senat The officers thus appointed are occupied with the supe vision of the leading economic interests of the peopl

or the enforcement of laws contributing to public health, safety, convenience, or morals. Their terms with a few exceptions are two years, the exceptions being the superintendent of insurance, who holds office for three years, and the inspector of mines and the inspector of workshops and factories, who serve each for four years. The mention of the titles of the rest of these officers will sufficiently indicate their official business. They are the commissioner of railroads and telegraphs, two inspectors of oils, the commissioner of the statistics of labor, the supervisor of public printing, the State geologist, the adjutant general, the State fire marshal, the commissioner of soldiers' claims, and the chief examiner of steam engineers.[1] The legislature created the last three in 1900, and in 1904 the State highway commissioner. The fire marshal investigates the causes of fires, and sees that persons charged with arson are prosecuted. The commissioner of soldiers' claims collects the claims of Ohio soldiers and marines, and furnishes information and advice to claimants. The chief examiner of steam engineers licenses qualified persons to operate steam engines. He is assisted by six district examiners.[2] Most, if not all, of these officers are required to make annual reports to the governor.

Boards and commissions.

Besides these officers there are numerous boards and commissions that share in the administrative work of the State.[3] Most of these are permanent, but temporary commissions are established by law from time to time to perform special duties. Like the appointive

[1] See Appendix D, § 96.

[2] For a detailed statement of the duties of the various officers, consult Bates, *Annotated Ohio Statutes*, using the index.

[3] See Appendix D, § 96.

officers, these boards deal generally with non-political matters, such as the administration of public institutions, the granting of pardons, the enforcement of sanitary regulations, the equalization of taxes, the encouragement of agriculture and other economic interests, the examination of candidates for admission to certain professions, etc. The membership of these boards is fixed by statute, the number of members varying usually from three to seven. The boards are non-partisan, are with few exceptions appointed by the governor and the Senate, and vacancies are filled as they occur from time to time by gubernatorial nomination.

Boards established by the constitution.

Two of the permanent boards owe their origin to the constitution, namely, the commissioners of the sinking fund and the board of public works. The auditor, secretary of state, and attorney general constitute the first, which accumulates and disburses a sinking fund for the payment of the State debt. This fund is raised from the income of the public works, stocks owned by the State, sums raised by taxation, etc.[1] The board of public works consists of three members, elected for three years, one member being chosen annually. They have charge of the public works of the State, including canals; they appoint assistants; lease public lands; let contracts for improvements, and levy canal tolls.[2] There are a number of other boards. Among these are the State board of health, the State board of agriculture, the State board of arbitration, the various medical boards,

[1] *Constitution of Ohio* (1851), Art. VIII. §§ 7-11; Bates, *Statutes*, §§ 219 *ff.*

[2] *Ibid.*, Art. VIII. §§ 12, 13; Bates, *Statutes*, §§ (218-1) *ff.*

the State board of pardons, the State board of equalization, and the State school book board.

36. The Judicial Department

The judicial department of the government is made up of those officers who apply the laws in the settlement of disputes and "protect the legal rights of citizens and of the community from infringement." This department comprises a system of graded courts, provided for by the constitution, to which new courts, inferior to the supreme court, may be added by action of the legislature. A two-thirds vote is required in each house to establish new courts, or to change the districts or number of judges of any of the old ones. A court, however, does not always consist of several judges. It may be defined as "a judge or judges sitting for the hearing or trial of causes." The judicial system of the State now comprises the supreme court, circuit courts, courts of common pleas (with the superior court of Cincinnati), probate courts, juvenile courts (with two insolvency courts), justice of the peace courts, and municipal courts. The supreme court is the only tribunal whose jurisdiction extends throughout the entire State. The jurisdiction of the other courts is limited to special districts and localities. We may therefore reserve the consideration of these inferior courts until we come to study the local governments with which they are more or less closely connected.

The judicial system of the State.

The supreme court is the highest court in the State. It has both original and appellate jurisdiction in civil and criminal cases. It consists of six judges, one elected each year for a term of six years. The court is divided

Supreme court.

into two sections of three each. A decision of either division has the force of a decision of the whole court; but cases involving the constitutionality of an act of the legislature or of Congress, as also cases in which the opinion of either division is not unanimous, are reserved for the full bench. A jury forms no part of the organization of the court.

Officers of the supreme court.

The officers of the court are a clerk, reporter, and law librarian. (1) The clerk is elected for three years, and it is his duty to prepare the court dockets, attend the sessions of the court, keep a record of its proceedings and decrees, issue the necessary writs, and perform such other duties as the law directs. (2) The reporter is appointed by the court for a term not exceeding three years. His business is to report, edit, index, and publish the decisions of the court and such other decisions as it designates. (3) The court appoints a law librarian for three years, who serves also as the crier of the court. The librarian has charge of the law library and court rooms.

Terms.

The supreme court holds its regular annual term in Columbus beginning on the Tuesday after the first Monday of January. It may hold special or adjourned terms at other times and places.

Attorneys-at-law and notaries public.

The supreme court, or two of the judges, makes the rules and fixes the times for the bar examinations in the State. All persons who expect to become attorneys-at-law must first pass an examination upon their legal attainments. Candidates must be at least twenty-one years of age, citizens of the United States, and residents of the State for the year preceding. Another class of officers who have important legal functions are notaries public. These officers are appointed by the governor

for three years, and are required to give bond in the sum of $1500. By virtue of their appointment, they are empowered to administer oaths, and to take and certify depositions, acknowledgments of deeds, mortgages, and other legal writings in the county or counties for which they are appointed.

CHAPTER VI

THE LOCAL GOVERNMENTS OF THE STATE

37. REFERENCES

Bryce, *American Commonwealth,* I., ch. 48, "Local Government," ch. 49, "Rural Local Government," ch. 50, "Government of Cities, ch. 51, "Working of City Governments;" Howard, *Local Constitutional History of the United States,* I., chs. 4 and 10, deal with the township and county in the West; Wilgus, "Evolution of Township Government in Ohio," in *Annual Report of the American Historical Association for 1894;* Bemis, "Local Government in Michigan and the Northwest" (*Johns Hopkins University Studies,* vol. V.); Wilson, *The State,* secs. 1209-1259, "Local Government;" Fiske, *Civil Government in the United States,* ch. 2, "The Township," ch. 3, "The County," ch. 5, "The City;" Woolsey, *Political Science,* Part III. ch. 10, "Institutions, Local and Self-Government;" Peck, *Township Officers' Guide;* Wilcox, "Municipal Government in Michigan and Ohio" (*Columbia University Studies,* vol. V., number 3); Fairlie, "The Municipal Crisis in Ohio," *Michigan Law Review,* Feb., 1903; Wilcox, *The Study of City Government;* Goodnow, *Municipal Problems and Municipal Home Rule;* Conkling, *City Government in the United States;* Zueblin, *American Municipal Progress.*

Constitution of Ohio (1851), Art. X., "County and Township Organizations," Art. XIII., "Corporations;" Bates, *Annotated Statutes of Ohio,* I. 457-633, "Counties," 682-713a, "Townships," 3192-3195, "Before Justices of the Peace;" Swan's *Treatise on the Law relating to the Powers and Duties of Justices of the Peace and Constables in the State of Ohio* (13th edit.); Ellis, *New Annotated Ohio Municipal Code.*

38. The County Government

The two groups of local governments

We have seen in Chapter III that the State has its central government and its system of local governments. These local governments may be divided for convenience into two general groups, rural and urban. The former comprises counties and townships; the latter, cities and villages. Both groups are of English origin, having been brought over by our forefathers in the seventeenth century, but naturally they have undergone considerable change since. The county became the chief means for local administration in the South where the population was sparse and scattered, while in New England the fact that most of the people lived in villages favored the employment of the smaller area—the township. The local institutions of Ohio were largely derived from Pennsylvania, where a "mixed organization of county and township" prevailed, and where the township occupied a subordinate place. The mingling in Ohio of settlers from New England, Pennsylvania, and the South naturally led to the development of a form of local government which was a true compound of the various systems with which the settlers had been familiar at home. Our urban agencies of government have been made necessary of course by the massing of population in limited areas, but both the organization and classification of these agencies have been influenced by English experience and prejudice.

Local governments as administrative divisions of the State.

While the origin of our local governments is thus easily accounted for, it should be remembered that their creation and operation are regulated by State laws. In a political, as well as a territorial sense, they are divisions of the State. It has already been pointed out that

each county is a "representative district" for the election of members of the house of representatives, and that groups of counties constitute "senatorial districts" for the election of State senators. The counties are also grouped into judicial circuits and districts in order to facilitate the administration of justice throughout the Commonwealth. The officers of the counties are the State's agents for the assessment and collection of taxes and the apportionment of the school fund within their respective areas. And the officers of both the counties and the other local divisions see to the enforcement of the State laws in their several districts. Thus we see that the various local divisions are useful as administrative districts of the State and that their officers serve as the guardians of State interests in all the different communities of the State.

govern- in the areas.

But we must not overlook the fact—more important than all else—that these territorial divisions serve as areas of local self-government. In this way, the control of the ordinary and immediate concerns of a locality are kept in the hands of the locality itself. The local officers, although they act as administrative agents for the State, are mainly occupied with such matters as police protection, the survey of lands and the recording of deeds, the care of the public health, the prevention of nuisances, the building of roads and bridges, the care of the poor, the maintenance of schools, the assessment and collection of taxes, and the administration of justice in the lower grades.[1] Briefly stated, they are specially concerned with promoting the welfare of their separate localities.

tion of ties.

All things considered, the county is the most impor-

[1] Wilson, *The State*, 524.

tant local division of the State, and we shall therefore begin our study of the local governments with the county. The first nine counties in Ohio were established by Governor St. Clair in the Territorial days. The other seventy-nine have been created by action of the legislature. Under the existing constitution the legislature still has the power to erect new counties and provide for their organization. It may do this either of its own motion, or on petition signed by the electors interested in the matter. In the latter case, notice of intention to present a petition must be published in the newspapers of the district concerned at least thirty days before the ensuing session of the legislature; and in every case, laws creating new counties or changing county lines must receive the approval of the electors of the counties concerned before they can go into effect. Besides these general provisions applying to new counties, there are two others deserving mention. The legislature has the power to divide a county that has reached a population of one hundred thousand, provided that the population of neither division is less than twenty thousand. Finally, every new county must contain at least four hundred square miles.[1]

The county commissioners.

Both the county and the township have but slight legislative power. In the case of the county, this power is vested in the board of county commissioners. But the board also has administrative duties. It may therefore be regarded as both a legislative and an executive body. Thus we see that the principle of the division of the government into three separate branches does not hold fully for the county. The commissioners are elected

[1] Bates, *Statutes*, §§ 811-815; *Constitution of Ohio* (1851), Art. II. § 30.

by the voters of their district, one being chosen each year at the November election for a three years' term. They provide for and administer all the business of their district that is not assigned by law to the other officers. They control and manage the property of the county generally, erect and maintain the necessary public buildings, open county roads, care for bridges on State and county highways except in some cities and villages, determine the rate of county taxes, allow claims against the county, supervise the accounts of the other officers, and act in the organization of new townships and villages.

utive rs of ounty.

The executive officers of the county, apart from the county commissioners, are: the sheriff, prosecuting attorney, auditor, treasurer, recorder, clerk, coroner, surveyor, three infirmary directors, a board of three school examiners, and a board of six county visitors.[1] The examiners and visitors are appointed by the probate judge and the presiding judge of the common pleas court of the county for terms of three years. The other officers are elected for three years, except the sheriff, treasurer, and coroner, who are elected for two years. Most of the county officers have the right to appoint a specified number of assistants or "deputies," for whose public acts they are responsible. We shall consider

iff.

these officers in order. (1) The sheriff preserves the public peace of the county; arrests criminals; executes the orders of the common pleas, probate, and circuit courts; has charge of prisoners, juries, and witnesses during trials; transports those sentenced by the court to the place of confinement, and acts as custodian of the

ecuting ney.

jail and court house. (2) The prosecuting attorney

[1] See Appendix D, § 97-A.

prosecutes criminal actions in the county in behalf of the State, and conducts such suits for the county as the law directs. He is the legal advisor of the other county officials and of the grand jury. (3) The county auditor keeps account of all money paid to the treasurer or paid out by him, and issues all warrants on that officer for bills allowed by the commissioners. He is usually the secretary of the board of commissioners; is county sealer of weights and measures; lists the taxable property of the county, and determines the sum to be paid by each property owner for local, county, and State purposes. (4) The county treasurer is the collector of the taxes and the custodian of all moneys paid to the county. In making his collections he uses as a guide a copy of the auditor's list of taxable property, known as the tax duplicate. He must settle twice a year with the auditor for taxes collected, and make a full annual settlement with the commissioners. The treasury is subject to two inspections a year by the auditor and commissioners, and to an annual examination by a committee appointed by the probate judge or court of common pleas. No person is eligible to the office of treasurer for more than two terms (two years each) in any period of six years. (5) The county recorder keeps record of deeds, mortgages, plats, and leases in order to prevent confusion as to the ownership of lands or the perpetration of frauds in the making of transfers. Unrecorded papers are invalid as against persons ignorant of their existence. The records are indexed and open to the public. (6) The county clerk is clerk of the court of common pleas and of the circuit court in his county. He files all papers in suits pending in these courts, keeps the records of their proceedings, issues

Auditor.

Treasurer.

Recorder.

Clerk.

their processes, and renders an annual report to the secretary of state of all prosecutions in the county with their results. (7) The coroner holds inquests to discover the causes of sudden death and the parties responsible therefor. Persons found to be criminally implicated are held for trial. The functions of the coroner may be performed by a justice of the peace if the former is absent from the county, or lives more than ten miles distant. In case of vacancy in the office of sheriff, the duties of that officer devolve on the coroner.

oroner.

irveyor.

(8) The county surveyor keeps a record of the landmarks and a plat of the surveys of the county; runs lines and makes estimates for the building of roads, bridges, and other public works; surveys lands that have been sold for taxes; and establishes disputed boundaries. (9) The three infirmary directors are in charge of the county infirmary, which is a home for the helpless poor of the county. They employ a superintendent, lay down the rules for the government of the institution, and purchase the necessary supplies by contract. They render a semi-annual report to the county commissioners with a full account of receipts and expenditures. They are elected, one each year, for a three years' term. (10, and 11) The duties of the county board of school examiners and the board of county visitors are described in other connections, and need not, therefore, be dealt with here.

ifirmary rectors.

robate urt, and urt of solvency.

Generally speaking, the judicial authority of the county is exercised through three courts, the probate court, the court of common pleas, and the circuit court. Only the first of these is a county court. This may be so described because the probate judge is elected and paid by the county, and his jurisdiction is limited to the county.

He is chosen for three years. The court over which he presides has jurisdiction over the estates of deceased persons; it probates wills; appoints administrators, executors, and guardians, and examines their accounts; settles the accounts of insolvent debtors, and authorizes the commitment of insane persons to places of safekeeping. In Cuyahoga and Hamilton counties there is also a court of insolvency, created to relieve the probate court of the adjustment of the business affairs of bankrupts, and a few other matters. Each insolvency court consists of one judge, elected for five years.

Common pleas court; superior court of Cincinnati.

Each county is part of a common pleas district and helps to elect the common pleas judges of the district. But Hamilton county forms a district by itself, and the other eighty-seven counties are grouped in nine districts, each of which is divided into three judicial subdivisions.[1] The voters of each subdivision elect for five years one or more common pleas judges, and those of Hamilton county elect three. The judges of each district meet and fix the annual calendar for three terms of court for each county in their district, and hold court separately in the counties of their respective subdivisions. The court's jurisdiction is limited to the county in which it is in session, and is both civil and criminal, and original and appellate. It is original in civil cases involving a sum of more than $100, and original also in criminal cases. Its appellate jurisdiction extends to all cases carried up from the probate or other lower courts and officers. The superior court of Cincinnati is supplementary to the common pleas court of Hamilton county. It has original jurisdiction in

[1] For a list of the common pleas judicial districts and their subdivisions, see Appendix C, § 95.

specified actions (mainly civil) where the amount in dispute exceeds $100, and the defendant resides or may be summoned in Cincinnati. This court consists of three judges elected for five years by the voters of Cincinnati.

Circuit court.

Each county forms part of a judicial circuit and its voters help to elect the circuit judges. There are eight circuits, each with three judges, one chosen every two years for a term of six years.[1] All of the circuit judges of the State meet annually and arrange their calendar for holding two terms of court in each county of their respective circuits. A circuit court has civil and criminal, and original and appellate jurisdiction. It possesses like original jurisdiction with the supreme court to try actions in *quo warranto, mandamus, habeas corpus,* and *procedendo,* but only in its own circuit.[2] By virtue of its appellate jurisdiction, it may review cases brought on error or appeal from the common pleas courts of its circuit, and also judgments of inferior courts in criminal cases.

[1] For a list of the judicial circuits, see Appendix C, § 94.

[2] An action in *quo warranto* issues in the form of a writ "calling upon a person or body of persons to show by what warrant they exercise a public office, privilege, franchise, or liberty." An action in *mandamus* secures an order directed to some officer, court or body of persons to do some specified act or duty, and is generally taken by a person directly concerned in having a public duty performed. The third action, *habeas corpus,* is intended to prevent illegal imprisonment by requiring the body of the person who has been deprived of his liberty to be brought before the court in order that the lawfulness of the detention may be determined. The fourth action, *procedendo,* refers a cause back to the court from which it was removed on insufficient grounds. The inferior court is directed to proceed with the case: Bates, *Statutes,* §§ 5727, 6709, 6741, 6760, 6768.

Grand jury.

The grand jury also belongs to the judicial system of the county. It consists of fifteen persons, drawn from a list prepared by the four jury commissioners of the county. The fifteen names are drawn from the jury wheel by the county clerk. The grand jury makes a preliminary inquiry into the serious crimes committed within the county to see whether the persons accused of them should be held for trial. The inquiry is conducted in secret and twelve votes are required to "bring an indictment."

Juvenile Courts.

A law of 1904 provides for a juvenile court in certain counties to regulate the treatment and control of dependent, neglected, and delinquent children under sixteen years of age. The judge is appointed by the judges of the common pleas, probate, and sometimes other courts of the county from among their own number. He in turn appoints probation officers to carry out the court's orders.

39. The Township Government[1]

Creation of townships.

As the State is divided into counties, so each county is divided into a number of townships. The townships are the primary units of local government, and, like the

[1] We are here dealing with the civil township. There are also in Ohio what are called "original surveyed townships." These are the districts six miles square marked out by the government survey authorized by the Land Ordinance of 1785. These districts are divided into 36 sections, each of which contains 640 acres. Congress set apart one section (section 16) in each of these townships for the support of schools, and in some an additional section (section 29) for the support of religion. The care of these lands and the revenue arising from their rental or sale is entrusted to three trustees and a treasurer in each original township. These officers are chosen by the voters of the division, but if no election is held or the officers fail to serve, the county auditor fills the vacancies by appointment: Bates, *Statutes*, §§ 1366-1373.

counties, have legislative, executive, and judicial powers. Under the Ordinance of 1787, the governor had the right to create townships and appoint their officials; but this right was soon bestowed by law on certain county officers, viz., the justices of the court of quarter sessions of the peace. Under the constitution of 1802, the county commissioners received the authority to establish townships; and by action of the legislature, the township officers became elective.[1] This continues to be so at the present time. However, in creating new townships or changing township lines, the county commissioners can act only on a petition signed by a majority of the house-holders residing in the township affected. They must also give the application a public hearing, having first given thirty days' notice. If, by their action, a new township is set off, they must give at least ten days' notice of the time and place for holding an election for township officers. Those chosen by the voters of the district at the time appointed hold office until the next annual township election.

The township trustees.

The township, like the county, is a rural district; and its powers, while more limited, are similar to those of the county. It therefore has certain legislative, executive, and judicial powers. Its legislative authority, however, is slight, and rests, together with considerable executive power, in the hands of three township trustees. These officers are elected by the voters of the township on the first Tuesday after the first Monday of November annually for a three years' term. They fix the rate of local taxation, and make the annual levy for township purposes; divide the township into road districts, and authorize new roads, ditches, and bridges;

[1] See Chapter I, pp. 12, 15; Chapter II, 32.

serves as, or appoint, the board; and do many other things.

Executive officers of the township.

The executive officers of the township, apart from the township trustees, are: a clerk, a treasurer, as many assessors as there are election precincts in the township, a road commissioner for each road district in the township, as many constables as the trustees may think necessary, and a board of education consisting of five members elected at large by the voters of the township.[1] (1) The clerk is secretary of the trustees and the board of education of the township; draws up an annual statement of the township finances; and signs all orders issued by the trustees for the payment of money by the township treasurer. (2) The assessor makes the annual valuation of all the taxable personal property in his precinct, and gathers statistics relating to agriculture and other branches of industry. (3) The supervisor of roads keeps the highways in his district clear and in repair, and opens new roads. (4) The constables preserve the peace of the township, serve all orders and notices from the trustees, and all writs and warrants issued by the justice's court. The duties of the board of education are described elsewhere. The regular election of township officers is held annually on the first Tuesday after the first Monday of November. The supervisors of roads and assessors hold their positions for one year; the clerk and treasurer for two; the trustees, constables, and justices of the peace for three; and the members of the school board for four years.

The township judiciary.

The judicial authority within the township is exercised by the justices of the peace. Each township elects

[1] For a list of officers of the township, see Appendix D, § 97-B.

one or more justices, the number being fixed by the court of common pleas when the township is established, while any subsequent change of number lies with the probate judge. The justices are chosen for three years and are usually paid by fees, but in several of the larger cities they receive instead a stated salary ranging from $1200 to $2500. As there is no court lower than that of the justice, its jurisdiction is altogether original in both civil and criminal cases. In civil cases its authority is confined in general to the township, and is limited to those not involving more than $300. Claims amounting to $100 or less must be sued before a justice, but those ranging from $100 to $300 may be sued in either the justice's or common pleas court. In criminal cases the jurisdiction of a justice's court extends throughout the county to order the arrest of persons charged with breach of the peace, felony, or misdemeanor (that is, the lighter offences); to inquire into the complaint; and discharge, punish, or bind over the defendant for appearance before a higher court.

The township is an administrative district.

The township is an administrative district of both the county and the State. The taxes raised by the county are apportioned among the various townships, and the assessment or annual valuation of personal property within the township is made by the township assessors. The township is also the primary district for the enforcement of State laws, whether these relate to education, the administration of the lowest grade of justice, or other subjects having a local interest. But the township is also an area of local self-government, and its officers—elected by the people of the township—are mainly concerned with such matters as contribute to the

peace, comfort, and local welfare of their own community.

40. The Village Government

Emergence of village government

The authority to establish village government was vested, under the Ordinance of 1787, in the Territorial officers. However, the two earliest examples of the emergence of village government in Ohio are exceptional. In these two cases—Marietta and Losantiville (later Cincinnati)—the people themselves met in 1789, and enacted local police regulations. In the case of Marietta, and probably in the other case as well, this was done in the absence of the Territorial officers. Under the constitution of 1802, the legislature organized both villages and cities by special charters. The constitution of 1851 required all municipal corporations to be organized under general laws, but this requirement was constantly violated by the legislature, especially in the case of cities.[1] The laws in force up to the time of the enactment of the municipal code divided the smaller municipalities (those with a population of less than 5000) into hamlets and two classes of villages, and provided simple forms of government for them. But in the case of the larger municipalities (those with a population of 5000 or more) the classification was much more elaborate, and the differences in governmental forms and powers much greater. Indeed, the classification of cities was carried to such an extreme, that a great part of the legislation referring to municipalities, while having the appearance of general legislation, applied only to this or that particular city. The

[1] See Chapter II, pp. 40, 41.

code has done away with all this, except that it retains the two general groups—villages and cities, on the same basis of population as before. Thus it provides that municipal corporations that had a population of 5000 or more at the last Federal census are cities, and all the rest are villages. It further provides that all villages that are found to have a population of 5000 or more at any future Federal census shall become cities. The secretary of state was required to make up the list of villages and of cities under the code regulations, and to embody it in a proclamation, which he sent to all village and city mayors at the time of the taking effect of the code. The municipalities thus notified assumed their rank thirty days after the issuance of the proclamation, and completed their reorganization by electing the officers provided for in the code at the municipal election on the first Monday in April, 1903. Subsequent proclamations are to be issued by the secretary of state at intervals of ten years, immediately after the Federal census, and in cases where a village is advanced to a city, or vice versa, the officers of the new corporation must be chosen at the next regular election.

corporation of villages.

Under the present laws of the State, villages are created and incorporated either by action of the county commissioners or of the township trustees. In the former case the steps are as follows: (1) the presentation of a petition signed by at least thirty electors of any territory that has been laid off in village lots; (2) a public hearing of the question after the lapse of sixty days; (3) the recording of an order by the commissioners authorizing the organization of the village, if there is the requisite population, and the commissioners approve; (4) the notification of the secretary of state and the

petitioners that the order has been made; and (5) the actual organization of the village by the election of its officers. In the other case the procedure is as follows: (1) the petition is addressed to the township trustees, and contains a request for an election to obtain the sense of the voters of the territory concerned on the question of incorporation; (2) the trustees then submit the matter to vote, having first given ten days' notice of the election; (3) if the majority of the ballots are cast "for incorporation" the trustees declare the village incorporated; (4) the process is completed by the election of officers at the succeeding annual municipal election.[1]

Surrender of corporate powers by a village.

If a village wishes to surrender its corporate powers, a petition signed by forty per cent. of its electors must be presented to the village council. This body orders a special election, and submits the question to the people. In case the result of the election is in favor of such surrender, notice is sent to the secretary of state and the recorder of the county, who make record of the fact. Thereupon the corporate powers of the village cease, but without affecting the vested rights or accrued liabilities of the village.[2]

The village legislature.

The legislative power of the village is vested in a council of six members elected by the voters of the village at large for two years, three each year. The members may receive $2 for each meeting attended. The council is judge of the qualification and election of its own members, who must be electors, and must have lived in the village at least a year preceding the election. By a two-thirds vote, it may expel a member for cause. The council possesses the power to pass a great variety

[1] Bates, *Statutes*, §§ 1553-1565.
[2] *Municipal Code*, § 4.

of ordinances relating to the management of the village and its affairs, including (1) the levy and collection of taxes and assessments; (2) the maintenance of peace and good order, by regulating public houses, places of amusement, and preventing disorderly conduct or assemblies; (3) the protection of the public safety, by maintaining police and fire departments, by abating nuisances and providing pest houses and station houses, by regulating the use of streets, the running at large of animals, and the storage of explosives; (4) the supplying of public conveniences, such as a market-place, parks, streets, sidewalks, drains, waterworks, public lighting, public buildings, and the like; (5) the power also to impose penalties not exceeding $500 and six months' imprisonment, or both, for violation of the village ordinances; and, finally, (6) the power to fix the compensation and bonds of the regular municipal officers, and to provide for such additional officers as may be needed from time to time.[1]

e village
ecutive.

The chief executive officer and conservator of the peace of the village is the mayor. He enforces the village ordinances; appoints the street commissioner, the deputy marshals and policemen, the fire chief and firemen, and such other officers as the council may authorize him to appoint with the consent of that body; he may also remove any of these appointed officials for cause; finally, he is president of the council, but has no power to vote, except in case of a tie. The clerk is secretary of the council; keeps a record of all ordinances; has charge of the village books; receives monthly reports of the receipts and expenditures of the other officers, and audits their accounts at least once a year. The treas-

[1] *Municipal Code*, §§ 193-198; 119-122; 124 and 125; 7-9.

urer keeps an accurate account of all moneys received and disbursements made by him; he receives from the county treasurer all taxes and assessments levied by order of the council; he is the custodian also of all moneys accruing to the corporation from judgments, penalties, forfeitures, and licenses; he makes a quarterly settlement with the council and an annual report to that body on the condition of the municipal finances. The street commissioner supervises the lighting, sprinkling, and cleaning of all public places, as well as the improvement and repair of streets, sidewalks, drains, water courses, bridges, etc. The marshal is eligible to appointment as street commissioner. The marshal is the police officer of the village, and the executive head, under the mayor, of any police force the village may have. The fire chief is the head of the fire department. For the supervision of such public utilities as waterworks, electric light plants, and gas plants, a board of trustees of public affairs is required by the code. This board is established by action of the council, and is made up of three elected members. The mayor, clerk, treasurer, marshal, and trustees of public affairs are all elected for the term of two years. The street commissioner is appointed for one year, and the fire chief for two years.[1]

Village boards.

Each incorporated village, with any territory attached for school purposes, forms a village school district. The school board consists of five members elected at large by the district for four years in groups of two and three respectively every second year. The village also has a board of health of five members, appointed by the mayor and the council, or, if the council prefers, a

[1] For a list of officers of the village, see Appendix D, § 97-C.

single health officer, instead of the board, appointed by the council itself.

The village judiciary.

The village judiciary is the mayor's court, so called because the mayor of the village sits as judge. In this capacity he tries cases involving the violation of the village ordinances, and cases of misdemeanor and felony. His jurisdiction in felonies, misdemeanors, and other criminal proceedings is like that of a justice of the peace, and extends throughout the county. In some villages the council, on recommendation of the mayor, may choose a police justice, who thereby acquires the same judicial authority as that belonging to the mayor.[1]

The village as an administrative district.

The village is an area created primarily for purposes of local self-government. But it is also an administrative district of the State. Thus its mayor and police court are partially concerned with the administration of State laws, and its board of education and board of health operate under the educational and sanitary laws of the State. When the boundaries of a village become identical with those of a township, the village assumes the responsibilities of the township, and the latter's officers are displaced by those of the village, excepting that the justices of the peace and constables are retained, and are elected at the village elections.

41. The City Government

Importance of city government.

Cities have arisen through the growth and expansion of villages. The municipal code provides that municipalities which had a population of five thousand or more at the last Federal census are cities, and that those which

[1] Bates, *Statutes*, §§ 1823, ff; *Laws of Ohio, 1902*, § 1831; *Municipal Code*, §§ 208, 209.

attain such a population at some subsequent Federal census shall become cities. The method by which a village assumes the rank and organization of a city has already been described.[1] There are now seventy-one cities in Ohio, under the code definition, and these cities possess an aggregate population of more than 1,800,000 —nearly one-half of the entire population of the State —and vary in size from about 5000 people to more than 381,000. It will thus be seen how important is the work of providing an adequate, and, at the same time, flexible system of government for our cities.

The city legislature.

The legislative branch of the city government is the council. In cities of less than 25,000 inhabitants, this body consists of seven members, three of whom are elected by the people at large, the other four being elected by wards. In cities of from 25,000 to 40,000 inhabitants, the council consists of nine members, three of whom are elected by the people at large and the other six by wards. For every 15,000 inhabitants above 40,000, there is one additional member, and when the total membership is fifteen or more, one member out of every five is elected at large, and the remainder by wards. These provisions have made necessary the redistricting of each city into as many wards as there are ward members to be elected in the city concerned. The work of redistricting was entrusted by the code to the old council or other legislative body of the city, under the limitation that the several wards should be made up of compact territory, and contain as nearly as practicable an equal number of inhabitants. After each recurring Federal census the council is required to redistrict the city in the same manner, in order to provide for any addi-

[1] See p. 104.

tional ward members to which the city may be entitled.[1] The council is the judge of the qualification and election of its own members, but all members must be electors of the city. Furthermore, councilmen at large must have resided in their respective cities, and councilmen from wards must have resided in their respective wards, at least one year next preceding their election. All councilmen serve for a term of two years. The powers of the council are legislative only, and include the enactment of ordinances for the levying and collection of taxes and special assessments; the borrowing of money; the appropriation of funds for the several departments; the maintenance of peace and good order; the care of the public health; the management of public property; the erection and maintenance of public buildings; the improvement and control of streets; the furnishing of light, heat, and water supply; the fixing of salaries of the city officials; the creation of any new offices that may be necessary; the establishment of penalties not exceeding $500 or six months' imprisonment, or both, for offenses against the city ordinances, and the doing of such other things as may be required for the good government of the city.

e city utive.

The chief executive power of the city is vested in the mayor, who is elected by the voters of the city for two years. He enforces the ordinances of the council and the laws of the State within the municipal limits, and is responsible for the peace and good order of the city. He has a share in the law-making power by reason of his right of veto, which he may exercise with regard to the whole or any part of an ordinance. The votes of two-thirds of all the councilmen are required to pass an

[1] *Municipal Code*, §§ 116, 117.

ordinance over the mayor's veto. The president of the council is included in the code's list of executive officers. He is elected for two years, and presides at all meetings of the council, but has no vote except in case of a tie. In the absence or disability of the mayor, he becomes acting mayor, and succeeds regularly to the mayor's office in case it becomes vacant. The auditor is elected for three years. He keeps the books of the city; makes up accurate statements of its receipts and expenditures, and its property; audits the accounts of all officers and departments at least once a year, and also at the close of their terms. The treasurer is elected for two years. He receives and disburses all funds of the city, including the school funds. The solicitor is also elected for two years. He serves as legal counsel for the officers and departments of the city, prepares all contracts and other legal instruments in which the city is concerned, and is prosecuting attorney of the police court.[1]

City boards

In addition to the officers above mentioned, each city has—under code provision—three boards, viz., a board of public service, a board of public safety, and a board of health.

1. The board of public service.

The board of public service consists of three or five directors, as may be determined by the council, and its members are elected by the people for a term of two years. This board is the chief administrative authority of the city, inasmuch as it is empowered to supervise all public works, and all public institutions under the city's control, except city universities, free public libraries, and property given to the city for park or hospital purposes under terms providing for the management of the property. These latter institutions

[1] For a list of officers of the city, see Appendix D, § 97-D.

have boards of directors of their own. But all the other public institutions of the city and all public improvements are placed under the supervision of the board of public service, which thus has the power to direct the improvement of streets, lands, bridges, and water courses, the lighting and cleaning of all public places, and the construction of all public works, besides the power to control all hospitals and other charitable and reformatory institutions maintained by the city. In the exercise of these extensive powers, the directors of public service can employ superintendents, inspectors, engineers, clerks, laborers, and other persons, and fix their compensation.[1]

The board public fety.

The board of public safety consists of two or four directors, as the council may determine; but not more than half the number of directors may belong to the same political party. The directors are appointed by the mayor for four years, with the consent of two-thirds of the council. This board and the mayor are charged with the duties incident to the appointment, regulation, and government of the police and fire departments of the city, together with the control of the fire alarm, telegraph, and telephone systems. Both the police and fire departments are carried on under the merit system, which provides for the classification of all officers in the department of public safety, and the appointment of applicants by the mayor only after these have passed satisfactorily a civil service examination for the class or grade in which they are seeking employment.[2]

The board health.

The board of health consists of five members, appointed by the mayor and confirmed by the council, the

[1] *Municipal Code*, §§ 138-145, 216-220.
[2] *Ibid*, §§ 158-169.

mayor serving as president of the board. This body makes and enforces such rules and regulations as it may deem wise and necessary for the protection of the health of the community, but it cannot close public highways, nor interfere with public officers who have not been directly exposed to contagious diseases, nor can it establish a quarantine of one city against another without the consent of the State board of health. The term of service of the board is fixed by the council.

4. The board of education.

Besides these boards, each city has, of course, its board of education, which has charge of the public schools within the city school district. According to the new school code, a city school district is defined as comprising an incorporated city "together with the territory attached to it for school purposes, and excluding the territory within its corporate limits detached for school purposes." In city districts containing a population of less than fifty thousand persons, the board of education consists of from three to seven members elected at large by the voters of the district. In city districts with a population of fifty thousand or over, however, the board is made up both of members at large elected by the voters of the entire district and of subdistrict members chosen by the voters of the subdistricts into which the city is divided. The school code declares that there shall be not less than two nor more than seven members at large, and not less than two nor more than thirty members elected from subdistricts. Each subdistrict is entitled to one member. Within the limits specified the number both of members-at-large and of subdistrict members for any particular city is determined by the school board of the city concerned, and is subject to revision after each Federal census.

Members are elected for four years, a part of the members being chosen every second year.[1]

The city judiciary.

The judicial authority of many of the smaller cities is vested in a mayor's court, which tries cases arising under the city ordinances, and has the jurisdiction of a justice of the peace to determine prosecutions for misdemeanors and felonies committed within the county. The larger cities are provided with a police court held by one or more police judges, who are elected for three years. The police judge has jurisdiction over offences against the city ordinances, and misdemeanors committed within the city or within four miles of the city limits. He also has the jurisdiction of a justice of the peace to deal with criminal cases within the county. The records of the police court are kept by a clerk of the police court, who is either appointed or elected for three years. In cities not otherwise provided for, the council may, on recommendation of the mayor, appoint a police justice who has the same judicial authority as the mayor.

The city as an administrative district.

The city, like the other local divisions, is an administrative district of the State. When a city becomes identical in its corporate limits with the township in which it is situated, all township offices are abolished, and the duties of these officers are henceforth performed by the corresponding officers of the city. The only exceptions to this rule are justices of the peace and constables, who are retained and are elected at the municipal elections. The property and books of the township now fall into the possession of the city, which takes the place of the township by assuming all of its interests and rights. The mayor and police of the city enforce the State laws within the city limits, the police court like-

[1] *School Code*, §§ 3886, 3897.

se, and the city board of education and board of health
rry out the general educational and sanitary laws of
: State. However, the chief business of the city is to
:end to its own municipal affairs.

PART THIRD

THE WORK OF THE GOVERNMENT

CHAPTER VII

THE ADMINISTRATION OF JUSTICE

42. References

Bryce, *American Commonwealth,* I., ch. 42, "The State Judiciary;" Ford, *American Citizen's Manual,* Part II., ch. 3, "Functions of State Governments;" Wilson, *The State,* ch. 15, "Functions of Government," ch. 16, "Objects of Government;" Woolsey, *Political Science,* I., Part 2, ch. 4, "Sphere and Ends of the State;" Bluntschli, *Theory of the State,* Eng. trans., Book V., "The End of the State;" Willoughby, *Nature of the State,* ch. 12, "The Aims of the State;" Munroe Smith, "State Statute and Common Law" (in *Political Science Quarterly,* II., 105; III., 136); Holmes, *The Common Law;* Robinson, *Elementary Law;* Kent, *Commentaries on American Law;* Hurd, *Habeas Corpus;* Pomeroy, *Municipal Law;* Schouler, *On Domestic Relations;* Washburn, *On Real Property;* Redfield, *On Wills;* Page, *Wills;* Parsons, *On Contracts;* Kinkead, *Court Practice;* Swan's *Treatise on the Law relating to the Powers and Duties of Justices of the Peace and Constables in the State of Ohio.*

Constitution of Ohio (1851), Art. XIV., "Jurisprudence;" Bates, *Annotated Ohio Statutes,* II. 1776-1789, "Domestic Relations," 1790-1883, "Relations Arising upon Contracts," 2281-2333, "Property," 2678-3294, "Civil Procedure," 3297-3483, "Criminal Procedure."

43. The Functions of Government

Governmental functions.

Government, according to our State constitution, was instituted for the equal protection and benefit of the

people, and the constitution was itself established for the purpose of securing the blessings of freedom and promoting the common welfare.[1] These statements show that the people of Ohio, who are the source of the political power of the State, do not regard their government as an end in itself, but as a means for promoting the interests of the governed. This fact is illustrated in the various kinds of work which the government undertakes to do. Thus the government seeks to protect the rights of the people and administer justice; it protects the life, property, health, and morals of the community through the exercise of its police power; it affords military protection in times of extraordinary danger; it encourages and supports the cause of general education; it maintains and supervises charitable and correctional institutions; it exercises a certain control over the economic interests of the community; and finally, it raises the money necessary to meet the expense thus incurred. All of these things are done by the government because they are common interests of society, and because, for the most part, they could not be accomplished without the agency of the government. These various governmental functions will be considered in the remaining chapters of this book.

44. The Protection of Rights

Legal rights.

Society is based on the recognition of certain rights of its members. The rights of personal security and personal liberty, of property, domestic relations, and contracts are among the most important private rights which the law protects. It would be an extravagant

[1] *Constitution of Ohio* (1851), Art I. § 2; Preamble.

statement to say that the law creates these rights, but it defines and legalizes them, and, through the courts, affords the means to every person of securing redress against their invasion. While these rights are said to be "private" because they belong to citizens as individuals, several of them also belong to corporations. Thus a street railroad company, a city, or the State itself may own and dispose of property (*i. e.*, have property rights), or enter into contracts. As an individual may suffer wrong by the invasion of his rights, or be guilty of encroaching on the rights of another, so also may a corporation suffer or commit injury in the same way. In all such cases, whether individuals or corporations are involved, the law provides the remedy, and the methods by which it may be obtained.

Civil and criminal jurisdiction.

By virtue of their "civil jurisdiction," the courts apply both the methods and the remedy when the complaint is brought before them. Civil jurisdiction may therefore be defined as the power of the courts to try cases arising from injuries due to the invasion of private rights. Besides civil jurisdiction, the courts also have "criminal jurisdiction," that is, the power to try cases involving an offence against the rights of the community, and not merely against those of a single individual or corporation. Offences of this sort are called "public wrongs" or crimes, and are prosecuted in the name of the State.

Common and statute law.

In exercising both kinds of jurisdiction the courts apply two kinds of law, the common law and statute law. Our common law may be described as "that portion of the English law which was in force in the American colonies before the Revolution, and which has not been annulled or superseded by any later law."[1] It

[1] Morey, *The Government of New York*, 125.

consists of usages, principles, and decisions that are flexible in their application, but that, nevertheless, have proved to be inadequate to some of the multiplying needs of a growing State. These special needs have been met by enactments of the legislature, and these constitute our statute law.

Court decisions.

The enactments of the legislature, however, are rigid in phrasing, and apply to general classes of cases. They must be interpreted and applied to particular cases, and this is done by the courts. The decisions of the courts, therefore, show how the law is interpreted and adapted to the great variety of cases that come up for adjudication. As the supreme court is the highest in the State and has the power of revising the decisions of the lower tribunals that are brought before it, its decisions are the most important.

45. Rights Pertaining to Persons

The right o life and lim

One of the fundamental objects of the law is to protect certain rights pertaining to persons, for example, the right of personal security. This right "consists in a person's legal and uninterrupted enjoyment of his life, his limbs, his body, his health, and his reputation." The individual's right of life and limb means that no one shall deprive him of his life or commit bodily injury upon him. The State itself may not take a person's life unless he has committed a capital crime and has been duly tried and convicted by the unanimous verdict of a jury. To secure the personal safety of the citizen against assault, the law declares assault to be a crime punishable by criminal prosecution in the courts. It also makes an injury done with evil intent a crime, while an injury inflicted by the culpable negligence of another person

renders that person liable to a suit for damages brought by the injured party. If death occurs through the culpable negligence of another, the relatives of the deceased may bring a suit for damages against the offender. Persons who threaten the lives of others are placed under bonds to keep the peace. Finally, a person whose life is assailed has the right, under the law, to defend himself, even to the extent of taking his assailant's life, but the combat must not have been of his own seeking.[1]

The right to health.

The law has regard for the health of individuals. If the lives of persons are valuable to themselves and the community, the government can not afford to have the health of its citizens needlessly exposed to epidemics and other dangers. Hence, provision is made for a State board of health and local boards to enforce sanitary regulations. Indeed, the preservation of health is regarded as so important a matter that the law does not stop here, but makes minute requirements affecting particular occupations. Thus it undertakes to prevent the employment of children under fourteen years of age in any occupation injurious to health or dangerous to life and limb, and requires that seats shall be provided for female employees in manufacturing and mercantile establishments. These are single examples of health regulations that are enforcible under the police power of the State.

Right of reputation.

The right of a person to his good name is recognized by the law, which makes it possible for a person to recover damages from another who has uttered slanderous words against him, or has libeled him by published statements.

[1] Stewart *v.* State of Ohio, 1 *Ohio State Reports*, 66-72.

Personal liberty consists in the power of locomotion, or moving one's person to whatever place one's own inclination may direct, without restraint, unless by due course of law. Such liberty may be said to arise from the principle of absolute and equal freedom of all persons at birth, a principle which—it has been truly said—was impressed on the soil of Ohio by the Ordinance of 1787, "before there was an organized community within her limits."[1] The law therefore protects a person against arbitrary detention or the extortion of a binding obligation while under restraint.

Right of personal liberty.

Certain legal rights are created by marriage and the family relations resulting therefrom. The husband and wife assume obligations of mutual respect, fidelity, and support. The husband has the right to the wife's services in the household, and the wife and minor children have the right to support on the part of the husband. If the husband refuses to furnish support when he is able to do so, his failure constitutes a crime, punishable by imprisonment in the penitentiary. If he is unable to provide support, his wife must assist him so far as she is able.[2] In a similar manner the law recognizes certain reciprocal rights as existing between guardian and ward, and master and servant.

Right of domestic relations.

46. Rights Pertaining to Property

The administration of justice is by no means confined to the enforcement of the purely personal rights considered above. It extends to the right of property, by which we mean a person's right to the free use, en-

[1] Anderson *v.* Poindexter, 6 *Ohio State Reports*, 622-634.
[2] Bates, *Statutes*, §§ 3108, 3110.

joyment, and disposal of all his acquisitions. The term "property" embraces real and personal property. Real property may be defined as that which is immovable and permanent in its nature, for example, lands and buildings; while personal property may be defined as that which is movable or perishable, such as furniture, money, stocks held in corporations, etc.

Titles to property.

The recognition of the right of ownership and disposal by the law is not enough. Property may be acquired by fraud or other unjust methods. It is therefore necessary for the law to determine the methods by which property may be acquired and disposed of. In so doing, it makes it possible and requisite to hold property under a good title. The legal methods of holding property are by occupation, by conveyance, by prescription, and by inheritance. A person acquires property by occupation when he takes possession of something that does not belong to any one else; he acquires it by conveyance when he receives it as a gift or by purchase from a former owner; he acquires it by prescription when he holds it for a certain number of years without anyone's establishing a better title; and, finally, he acquires it by inheritance when he receives it by transfer on the death of a previous owner.

Inheritance.

The descent of property by inheritance takes place either in accordance with the last will and testament of the previous owner, or—in case there is no will—in accordance with the laws of descent of property, which determine the relative rights of the various heirs. As the inheritance of property is a complicated matter, often involving the rights of minors whose interests need to be protected, the law is explicit in fixing the methods by which property shall be inherited, and the estates of de-

ceased persons administered. It entrusts the protection of the rights of inheritance to the probate court of each county.

Administration of wills

It is one of the functions of this court to probate wills. This is done by proving and recording the will, after which it becomes valid in law. Next, the court appoints an administrator, unless a trustee or executor is named in the will. In the latter case the court usually confirms the nominee. A bond is required of the person entrusted with the execution of a will, except when otherwise provided in the will itself, and the court approves. An inventory and appraisement of the property of the deceased may be ordered by the court, and the administrator must then proceed to collect the assets of the estate, and pay all debts standing against it. Finally, he distributes the remainder to the persons entitled to it under the will. The administrator's accounts are always open to the inspection of the court. In the case of persons dying intestate (*i. e.*, without a will), the proceedings differ but little. The court appoints an administrator on the petition of the heirs, or some one of them, notice having been previously given to all. From this point the proceedings are the same as above described, except that the division of the property is made according to the law of the descent of property.

47. Rights Pertaining to Contracts.

Contracts.

The law not only protects rights pertaining to persons and to property, but also rights arising out of contracts. A contract is an agreement between two or more persons to do or not do a particular thing. In order to be legal, a contract must conform to certain

conditions: (1) it must be made with the full understanding and consent of both parties; (2) the parties must be legally competent, that is, they must be adult persons of sound mind; (3) the agreement must be based on a "consideration" or adequate reason, whether that be the price to be paid or a compensation in some other form; and (4) the contract must not involve the doing of anything illegal or impossible. When a contract has been made in keeping with these conditions, the law regards the failure of either to perform his part of the agreement as an injury to the other, and affords the injured party redress by action for damages in the courts.

Fraudulent contracts.

Contracts are fraudulent unless they are voluntary agreements entered into in good faith by the two parties. An agreement extorted from a person by force or intimidation is not valid. Furthermore, a contract in which one of the parties has been willfully deceived by the other gives the former just cause for petitioning the courts to annul the contract.

Importance of contracts.

It scarcely needs to be said that the cause of justice is greatly promoted by the legal protection given to contract rights. Contracts enter into every form of industry and commerce, and it is therefore essential that the obligations which they create should be subject to legal enforcement.

48. Private Wrongs and Civil Procedure

Private wrongs.

We have now seen that the law creates and defines rights. But as one's rights may be invaded or violated by other persons, the law must take cognizance of such violations as illegal and injurious acts, and provide for the punishment of the persons committing them. These

acts are violations of private rights and may therefore be spoken of as "private wrongs." They concern the persons who sustain injury through them; hence the law gives to every person who has suffered a private wrong the right to bring a "civil action" in court against the person who has done the wrong, for the purpose of securing compensation or "damages."

Parties to a civil action.

Thus, the parties to a civil action are the person who alleges that he has suffered injury and brings the action or suit, and the person who is charged with having done the injury. The former is the "plaintiff," and the latter is the "defendant." There may, of course, be two or more plaintiffs or two or more defendants in a suit. The parent or guardian brings action in behalf of a minor whose rights have been violated; and the executor or administrator brings action in behalf of an estate that has suffered injury. Both plaintiff and defendant are usually represented by attorneys, because the latter are familiar with the technicalities of the law and the procedure in the conduct of a trial.

The pleadings and issue.

By a trial is here meant the submission of the points at issue between the plaintiff and defendant to judicial examination and decision. Certain preliminary steps are necessary in order to bring a civil case to trial. First of all, the plaintiff or his attorney must file a "petition" with the clerk of the court having jurisdiction, say the common pleas court. The petition contains the name of the court and the county in which the action is brought, the names of the two parties, a statement of the plaintiff's right to bring action, a brief and clear statement of the facts in the case, and finally the demand for the judgment sought.[1] The defendant is now notified by

[1] Kinkead, *Code Pleading*, 96-106, §§ 46*a*-46*p*.

the clerk of the court of the action brought against him. He responds either by entering a "demurrer," which is an "objection based on a question of law"; or by making an "answer," "which is either a denial of the facts presented by the other side, or a statement of new facts constituting a defense or counter-claim." If the defendant sets up a counter-claim, it is incumbent on the plaintiff either to enter a "demurrer" on his part, or to make a "reply" in regard to the new matters of fact alleged. In this way the two sides of the case are brought before the court in the form of written documents or "pleadings," which define the "issue" between the two parties. Issues are of two sorts, issues of law and issues of fact. An issue of law is tried before the court or judge alone; issues of fact must be tried by a judge and jury, unless the right to a jury be waived.

The jury. In a case to be tried before judge and jury, the trial is said to begin with the selection or "impanelling" of the jury. The jury consists of twelve men sworn to render a verdict according to the law and the evidence. As the jury must be an impartial body, the law gives to both parties the right of "challenge," that is, the right to object to any person drawn as juryman. If the judge sustains the objection, it is necessary to fill the vacancy thus created by drawing another person for jury service.

Procedure in the trial. As soon as the jury is sworn the trial proceeds in the following order: (1) the plaintiff's attorney briefly states his claim and the evidence in its support; (2) the defendant's counsel similarly presents the defense together with the evidence in its favor; (3) the party on whom rests the burden of proof introduces his evidence, and is followed by the opposing party with his evidence; (4) the two sides give their evidence in rebuttal; (5)

written instructions on matters of law in the case submitted by either party may now be given to the jury at the discretion of the court; (6) the arguments are made by the attorneys for the two sides; (7) the court charges or instructs the jury concerning the powers of juries, the rules of evidence, and the law applying to the case; (8) the jury comes to its decision, and returns its verdict for the plaintiff or for the defendant in writing.

Judgment and execution.

In case the jury does not agree, a new trial may be ordered; or in case either party is dissatisfied with the verdict, he may make a motion for a new trial. However, in most cases, the verdict of the jury is followed by the judgment or decision of the court, which terminates the case. The court then issues a writ of "execution" directing the sheriff to see that the judgment is satisfied. This writ usually authorizes the sheriff to seize and sell so much of the defendant's property as will satisfy the judgment, certain necessaries of life being exempted.

Transfer to the circuit court on error.

If a motion for a new trial is made and the court overrules it, the case may be carried up to the circuit court on "petition in error." In this petition the dissatisfied party alleges an error in the decision of the lower court. The proceedings in error must be commenced within six months after the rendition of the judgment complained of, and are begun by filing the petition in error in the circuit court, together with copies of the court record and papers exhibiting the errors alleged. This is done by the aggrieved party, called the plaintiff in error, who has a summons served on the defendant in error. The latter then files his answer, and on a day appointed the circuit court hears the arguments of the attorneys. It gives its rulings on the errors alleged, and renders its

decision by affirming, reversing, vacating, or modifying the decision of the lower court. If exceptions are taken to the rulings of the circuit court, the case may be transferred on error to the supreme court. Here the time limits and proceedings are the same as in the circuit court, but the law requires that ten printed copies of the court record to be reviewed shall be filed with the papers; and the court rules provide that the parties must file ten printed copies of their briefs or arguments. Oral arguments may also be made, a day being appointed for the hearing.[1] The supreme court, like the circuit court, may affirm, reverse, modify, or vacate the judgment of the lower court, or it may order a new trial. Its decision is always given in writing, and is final except in cases lying within the jurisdiction of the courts of the United States. The supreme court of the State transmits its decision in the form of a mandate to the lower court for execution; and the latter, in case a new trial was not ordered, sends notice to the party against whom judgment was rendered, or, if necessary, issues a writ of execution under which the sheriff levies on the property of the defendant. The property may be sold at public or private sale in order to pay the judgment. We see from the above account what an elaborate procedure the law provides for the protection of a person from any private wrong that may have been done against him.

49. Public Wrongs and Criminal Procedure

Public wrongs.

The law takes cognizance not only of private wrongs, but also of "public wrongs" or crimes. A crime has been defined as a wrong that "the government notices as

[1] *Supreme Court Rules*, § 7.

injurious to the public, and punishes in what is called a criminal proceeding in its own name." The penal code of the State divides criminal acts into two classes, felonies and misdemeanors. It defines a felony as an offense that may be punished by death or by imprisonment in the penitentiary; and declares that all other offenses are misdemeanors. Misdemeanors are punished either by a fine or by a short imprisonment, or by both. Criminal acts are of great variety, and are arranged in different groups by the penal code, as follows: offenses against the sovereignty of the State, against the person, against property, against public peace, against public justice, against public health, against public policy, against chastity and morality, against the right of suffrage, and finally, those criminal acts that come under the heads of fraud, forgery, and counterfeiting.[1] A person who commits either a felony or a misdemeanor becomes subject to a "criminal action."

Criminal action.

The parties to a criminal action are the State as prosecutor on the one hand and the accused person as defendant on the other. The State is regularly represented by the prosecuting attorney of the county in which the crime was committed. This officer seeks to bring to justice all the persons who have shared in the commission of a crime. Where several are thus involved the law distinguishes technically between the "principal offender" and those who have aided and abetted him, but declares "whoever aids or abets, or procures another to commit any offense, may be prosecuted and punished as if he were the principal offender."[2]

Arrest.

A person who is believed to have committed a crime

[1] For the penal code, see Bates, *Statutes*, II. Part IV.

[2] Bates, *Statutes*, § 6804.

must first be placed under "arrest." This may be done either by an officer or in some cases by a private person, and consists in seizing and detaining the accused in the custody of the law. Arrests are usually made with a "warrant." This is a written order issued by a magistrate after investigation of the "complaint" made by some one claiming to be cognizant of a particular crime. It commands the officer to whom it is addressed to bring the accused before the magistrate. If the accused person flees from justice, the officer may pursue and arrest him in any county of the State. An arrest may be made by a peace officer without a warrant when the officer finds a person violating any law of the State, or any legal ordinance of a city or village. Where a felony has been committed, the officer may arrest, without a warrant, the person suspected, even though the latter be not taken in the act. So also a private individual may arrest, without a warrant, a person whom he suspects of a particular felony. An officer in pursuit of a criminal may call on the bystanders to aid him in making the arrest, even when he has no warrant; and anybody refusing becomes liable to a fine of $50 or less. When a criminal flees into another State, the governor secures his arrest by making "requisition" on the executive authority of the State into which he has fled.

Examination, commitment, and bail.

When the accused has been brought before the magistrate, the latter may proceed to the trial of the case if it is a minor offense and falls within his jurisdiction. Otherwise, the magistrate examines the prisoner to determine whether he shall be discharged or held for trial. The examination must be conducted in the presence of the accused, who thus has the chance to hear the testimony of all the witnesses. If the examination reveals

no grounds for holding the prisoner, he is "discharged"; otherwise, he is released "on bail" to appear for trial before the proper court at the proper time, or he is "committed" to jail to await trial. If a prisoner who is out on bail fails to appear at the appointed time, those who have furnished the bail or security forfeit it to the State. The prisoner is liable, however, to a subsequent arrest. When a person has been committed to jail, and it is thought that he is being detained unlawfully, he is entitled to a "writ of *habeas corpus*," which may be obtained from the proper court or judge by petition. The writ commands the officer detaining the accused to bring him before the court or judge named in the writ in order that inquiry may be made into the cause of restraint. If the inquiry discloses that the prisoner was unlawfully confined, the court discharges him; otherwise it recommits him for trial, or releases him on bail.

Indictment and information

The decision of the examining magistrate is not taken as the only ground for the trial of those charged with one of the more serious offenses. "Presentment" or "indictment" by the grand jury is necessary in these cases. The grand jury consists of fifteen persons, who are authorized to conduct a preliminary and secret inquiry into all crimes committed within the county. If twelve of the jurymen agree that sufficient evidence exists to justify the trial of the accused, they return a written accusation or indictment, which becomes the basis of the trial. In most counties of the State the probate court is given jurisdiction over misdemeanors, but an indictment is not required for this court to proceed to the trial of a person charged with a misdemeanor. A written examination, called an "information," drawn

up and filed with the court by the prosecuting attorney, is sufficient in such cases.[1]

Other preliminaries to the trial.

Where the accused is to be tried on an indictment for a felony, a copy of the indictment must be served on him within three days after it has been filed with the court. In all other cases he is entitled to a copy of the indictment on request. If the accused is unable to employ counsel, the court assigns him counsel, not exceeding two attorneys, who are paid by the county. An opportunity is then given the defendant to prepare exceptions to the indictment, or deny that the facts stated constitute an offense under the laws of the State. Such denial is called a "demurrer." Supposing that the court overrules any exception that may be made, the defendant is then "arraigned" in open court; that is, the accusation is read to him, and he is required to "plead" guilty or not guilty. If he plead guilty, he is placed in the custody of the sheriff until the court pronounces sentence. If he plead not guilty, the prosecuting attorney, under the direction of the court, designates a day for the trial. In the case of murder the plea of guilty is never accepted, and a trial is held.

Change of venue.

The trial takes place in the county where the offense was committed, unless proof be furnished that a fair and impartial trial cannot be had there. Where such proof is forthcoming, the court orders a "change of venue," that is, removal of the case to the court of an adjoining county for trial; but the prosecuting attorney of the first county continues to have charge of the case.

The jury.

The case is tried before a jury, and challenges are allowed to both the State and the defendant in order to secure an impartial trial. If the defendant is on trial

[1] Bates, *Statutes*, §§ 6454, 6455.

for murder in the first degree (for which the penalty, on conviction, is death), he is permitted sixteen peremptory challenges, which are challenges without the assignment of cause. The fundamental principle of our criminal law is that every person is presumed to be innocent until he is proved to be guilty. Hence every precaution is taken to secure a fair trial for the accused, who is given every advantage and the benefit of every doubt.

Procedure in the trial.

After the jury is chosen and sworn, the order of proceedings is the same as in the trial of a civil case. The counsel for the State and for the defense alternate in the presentation of the two sides and in introducing evidence. The opening argument to the jury is made by the State's counsel, the defendant's counsel follows, and the counsel for the State closes. The judge then charges the jury, which withdraws under the custody of an officer of the court to make up its verdict. A verdict must be unanimous, and declare the accused guilty or not guilty.

Motions, judgment, and execution.

Even after a verdict of conviction, the court may grant a new trial, or an "arrest of judgment" on motion of the defendant, if sufficient cause be shown. When an arrest of judgment is granted all the proceedings are set aside, but this does not prevent a new indictment. If the court overrules the defendant's motion, or no motion is made, the court pronounces sentence on the prisoner. The last resort of the defense under such circumstances is to appeal to a higher court on a "writ of error," in which an illegality in the proceedings is alleged. The sentence is carried out under a "writ of execution," issued by the court to the sheriff, directing that officer to inflict the penalty of the law. Such in general is the procedure in criminal actions. This pro-

cedure, like that in civil actions, is the outgrowth of centuries. Its purpose is to afford adequate protection to the community against crimes, and at the same time to secure full justice to those charged with the commission of crimes.

CHAPTER VIII

THE PROTECTION OF THE PUBLIC

50. References

English and American Cyclopaedia of Law, "Police Power;" Lalor, *Cyclopaedia of Political Science,* III., "Police," pp. 206-212, "Police Power," pp. 212-216; Cooley, *Constitutional Limitations,* ch. 16, "Police Power of the States;" Black, *Constitutional Law,* 2d ed., pp. 334-374; H. C. Black, "Police Power" (in *American Law Review,* 1891); Woolsey, *Political Science,* I. 235-240, "Police Power," also "Nature and Sphere of the Police Power" (in *Journal of the American Social Science Association,* 1871); Tiedeman, *State and Federal Control of Persons and Property;* Parker and Worthington, *Law of Health and Safety;* Sykes, *Public Health Problems* (in Contemporary Science series).

Ohio Penal Code, Title i, chs. 4-11; *Ohio Civil Code,* Part I. Title iii, chs. 7, 8, 9, 18, 21, 24, dealing with the Commissioner of Railroads and Telegraphs, the Superintendent of Insurance, the Inspector of Mines, the Food and Dairy Commissioner, the State Board of Health, and the State Fire Marshal, respectively; *Ohio Civil Code,* Part II. Title v, "Police Regulations;" *Ohio Laws,* vol. 96, pp. 22-25, "Ohio Municipal Code;" *Constitution of Ohio* (1851), Art. IX., "Militia;" *Reports* of the Commissioner of Railroads and Telegraphs, the State Board of Health, the Adjutant-General, and other officers and boards (printed in the *Executive Documents* of the State, also separately).

51. The Police Power of the State

Judicial power and police power

In the preceding chapter we saw what provision is made by the State for the protection of the rights of individuals against wrongs. It was there pointed out

that whenever the rights of one individual are invaded by another, the law gives the injured party redress; and when this invasion of private rights is so gross as to affect the community as a whole, it constitutes a public wrong or crime, and is tried and punished in the name of the State. A person who has committed either a private or public wrong is subject to legal action before the courts and suffers a penalty imposed by the *judicial power* of the State. Closely related to this judicial power, but distinguished from it, is the *police power* of the State. This police power is employed for the defense of the community against public dangers and nuisances. It includes so many subjects within its scope that it can not easily be defined. However, it may be said to be the power of a government to preserve and promote the public welfare by prohibiting all things hurtful to public safety, health, and morals, and establishing such regulations for the conduct of all persons and the use of all property as may be conducive to the public interest.[1]

[1] One authority states that "the public health and the public morals are the two subjects embraced within the strict and constitutional meaning of the term 'police power,'" and adds that "the police power does not extend to matters affecting the mere convenience of the public." A very clear statement of the subjects comprehended within the scope of the police power is found in the case of Lawton *v.* Steele, 152 *U. S.* 133, in which the court says: "It is universally conceded to include everything essential to public safety, health and morals, and to justify the destruction or abatement by summary proceedings, of whatever may be regarded as a public nuisance. Under this power it has been held that the State may order the destruction of a house falling to decay, or otherwise endangering the lives of passers-by; the demolition of such as may be in the path of a conflagration; the slaughter of diseased cattle; the destruction of diseased or unwholesome food; the prohibition of wooden buildings in cities; the regulation of railways

Comparison with eminent domain and taxation.

Police power may be compared with certain other powers of government as well as with the judicial power. It differs from the *right of eminent domain:* under the latter the government may take property for public use on proper compensation, while by reason of its *police power* the government may regulate the use of private property by the owner. Police power differs also from the *power of taxation:* the latter is the right of the government to derive from the people the money necessary to pay the expenses of public administration; the former is the authority of the government thus supported to provide for the peace, health, and safety of the community, even when this involves the restriction of individual liberty.

Police power vested in the State.

In a word, police power is society's means of self-protection, and is based on two well-known maxims of the law, namely, (1) "Every man shall so use his own property as not to injure another," and (2) "The safety of the whole people is the highest law." It is exercised primarily by the legislature. A measure of this power is delegated by the legislature to boards variously constituted, such as boards of county commissioners and township trustees and boards of health. It is also dele-

and other means of public conveyance, and of interments in burial grounds; the restriction of objectionable trades to certain localities; the compulsory vaccination of children; the confinement of the insane or those afflicted with contagious diseases; the restraint of vagrants, beggars, and habitual drunkards; the suppression of obscene literature and houses of ill-fame, and the prohibition of gambling houses and places where intoxicating liquors are sold. Beyond this the State, however, may interfere wherever the public interests demand it, and in this particular a large discretion is necessarily vested in the legislature to determine not only what the interests of the public require, but what measures are necessary for the protection of such interests."

gated to municipalities. The legislature enacts general police laws operative throughout the State, while the local boards and governments enact supplementary regulations adapted to the special needs of their several localities. There is, of course, a greater need of police regulations or ordinances in a densely populated city than in a thinly settled rural community, because the danger from contagious disease, fire, riot, etc., is greater in the former than in the latter.

Enforcement of police regulations.

The enforcement of the police laws and local ordinances is entrusted to the police departments of cities and villages, and to such special officers as may be appointed to execute the laws relating to health, safety, and other matters which concern the general safety. The most of this sort of work falls naturally to the municipal police departments. In villages there is often only a marshal as police officer; but the village council may provide for the appointment of deputy marshals, policemen, night watchmen, and special policemen, if there is need. In cities the police department is more elaborately organized, and consists of a chief of police, patrolmen, detectives, inspectors, etc.

52. Maintenance of the Public Peace

Carrying concealed weapons.

The police power of the State is exercised in protecting the community in five ways: (1) in maintaining the public peace, (2) in protecting life and property, (3) in protecting the public health, (4) in caring for public morals, and (5) in affording military protection in times of special danger. It is easy to see that the preservation of quiet and order is essential to the welfare of every community. Quarrels, brawls, mobs, and riots must be prevented as far as possible, and should be put down

promptly when they occur. As a precautionary measure the police laws of the State forbid the carrying of concealed weapons. Many men, if permitted to go armed, would be less disposed to avoid loud disputes and quarrels than if not provided with firearms.

Unlawful assemblies.

In like manner, persons are prohibited from assembling to do an unlawful act. The assembling for this purpose would be riotous, for a riot is defined to be the meeting of three or four persons to do an unlawful act with force and violence, the doing of such an act after being assembled, or the agreement to do it. To prohibit unlawful meetings tends to prevent the forming of mobs and noisy assemblages, which when once together may be easily induced by the eloquence of a popular leader to do acts which in moments of calm reflection they would never undertake. It is therefore made the duty of police officers to break up unlawful assemblies. Persons who have been duly warned to depart are guilty of a breach of the peace if they remain.

Disturbance of lawful assemblages.

The above prohibition does not, of course, apply to popular meetings for literary and religious purposes, for petitioning the law-making body or the public officers, or for discussing public matters and nominating candidates. The people have a natural right to assemble for such peaceable and legitimate purposes, and the disturbance of a meeting held for any of these purposes is unlawful.

53. Protection of Life and Property

Preventive character of the police power.

Again, the police power of the State is applied to protect the life and property of its citizens. Here the contrast between the police power and the judicial power, already noticed at the beginning of this chapter, becomes

most marked. The judicial power punishes the wrong-doer after the injury has been committed, while the police power seeks in advance to prevent injuries to life and property.[1] This preventive character of the police power is clearly shown in the laws and ordinances relating to the safety of buildings, the prevention of fires, the manufacture and storage of explosives, the use of streets and sidewalks, the regulation of railroads, etc.

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ılations.

For example, in crowded communities regulations are prescribed to prevent the dangers arising from faulty construction of buildings. The thickness of party walls, the depth of foundations, the manner and material of construction are all regulated by public authority, and are not left to the caprice of the builder. Regulations are likewise provided in regard to the burning of soft coal and the consumption of smoke.

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ires.

In order to prevent the loss of property by fires, the law authorizes each municipality to maintain a force of trained men, who suppress fires with costly apparatus furnished by the city. In attempting to stop the spread of a conflagration, the fire department has the right, by virtue of its police authority, to tear down and destroy adjoining buildings without compensation to the owners. Finally, the State maintains an officer, called the State fire marshal, who, by investigating the causes and extent of fires, makes available information that is of value in the future prevention of fires.

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ılosives.

On account of the great danger from highly explosive substances, like gunpowder and nitro-glycerine, it is prohibited to manufacture and store them except at a distance from the limits of a city.

[1] Morey, *The Government of New York*, 145, 146.

Use of streets.

The use of public streets and sidewalks is made the subject of strict police regulation in order to secure the greater safety of all concerned. There are many laws and court decisions to the effect that these thoroughfares may be put only to the uses for which they were originally intended. Hence, many of our municipal ordinances deal with such matters as the blocking of the streets, fast driving, the operation of steam and electric railways, the erection of signs and awnings, the construction of cellarways and of openings in sidewalks, and the use of sidewalks for storage purposes.

Regulation of railroads.

There is a number of statutes designed to increase the safety in the operation of steam railroads. These relate to the fitness of locomotive engineers, the safety of railway crossings, the use of signal and switching devices, the rate of speed in cities, the use of whistles, bells, couplers, and brakes, the construction of fences and cattle guards, the employment of spark arresters, and the liability of the railroad company for fire originating on its lands when others are damaged thereby.

Boats, ferries, and stages.

The navigation of rivers and canals is subject to similar regulation. There are provisions for the erection of buoys, lamps, etc., a law prescribing how coal and flat-boats shall be built, and another requiring every ferryman to have a license. Similar regulations have been made with regard to the use of the public highways. In the statutes relating to stage-driving, there is a section against running the horses to pass another vehicle, and one that provides a penalty for a driver's becoming intoxicated. It is clear that the object of these provisions is to insure the safe transportation of passengers and freight.[1]

[1] Bates, *Statutes*, §§ 4384-(4385-8), 4256-4268, 4419-4426.

Quasi-public corporations.

We have just seen that the government supervises certain kinds of business that affect the people at large, and in respect to which the individual is much at the mercy of the company carrying it on. The government not only looks after the safety of passengers and freight, but also protects certain financial interests of the people that would be affected by illegitimate business methods on the part of quasi-public corporations. Were it not for such protection, railroads might make grievous discriminations in rates of fare; banks might for a series of years carry on their business in an unsafe and dishonest way, to the detriment of numerous depositors; insurance companies might be unfair and dishonest in their dealings, and so with other enterprises. To protect the community against the power lodged in the hands of these corporations, the State provides for the inspection of their business methods and the filing of reports to show their financial condition. If they are found to be violating their privileges and duties, the State may take away their right to carry on business. The most important of the commercial enterprises so regulated are railroads, telegraph lines, insurance companies, building and loan associations, and banks.

Dealers in second-hand goods.

Another group of laws increases the security of property by making it possible to trace goods that may have been illegally acquired and then disposed of to second-head dealers. Thus pawnbrokers, proprietors of second-hand stores and junk shops, auctioneers and peddlers are not only required to have a license, but to keep record of the goods they handle, and, in the case of junk-dealers, to keep also a list of the addresses and

descriptions of the persons from whom articles are obtained.[1]

The police power seeks also to prevent malicious acts and the injuries to persons and property arising therefrom. Ohio, like the other States, has laws making it a punishable offense to place obstructions upon railroad tracks, to remove a rail, to displace a switch, to throw missiles at a train, to injure or interfere with telegraph or telephone lines, to injure a public highway, bridge, or building, to deface books belonging to a public library, and to do many other similar acts. Malicious acts.

54. Protection of the Public Health

To preserve and promote the public health, the State and its municipalities have made a multitude of regulations. But it must be remembered that these are not intended to care for the health of each particular individual. The individual is left to the care of his own physician. What the State and local governments undertake to do through their health laws is to maintain good sanitary conditions for the community at large and to prevent the spread of contagious and infectious diseases. These tasks are too large to be accomplished by private effort, and too vital to be left to the uncertainty of private accomplishment. Health laws.

To do these things successfully even the government has to assume extraordinary powers. In case of smallpox, scarlet fever, and other contagious diseases, the patient is placed under quarantine and may be entirely removed from his family. In time of actual or threatened epidemic the State board of health, or a local board Quarantine.

[1] Bates, *Statutes*, §§ 4386-4396, 4413-4414, 4222-4238, 4397-(4402-9).

with the approval of the State board, may establish a quarantine on vessels, railroads, stages, or other public or private conveyances, and may make such rules and regulations as are thought necessary for the protection of the health of the people of the community or State. Boards of health are further empowered to appoint sanitary inspectors during times of quarantine, to erect temporary buildings when needed for the isolation of quarantined persons or freight, and to disinfect or destroy clothing or other property as a precaution against the spread of disease.[1]

cination. In case of smallpox a board of health may also require the residents of a suspected district, or the children and teachers of a school, to submit to vaccination in order to render the disease less dangerous. This is generally recognized as a wise precaution; and the courts will enforce the order to vaccinate when issued by the proper authority.

er duties oards ealth. We have just seen that the power to order quarantine and vaccination is vested in a State board of health and in similar local boards. The local boards comprise both municipal and township boards, the township trustees serving as, or appointing, a board of health. The State board acts in a more general way than the local boards, whose powers are confined to their respective localities. The object of all the boards is, however, the same, namely, to protect the public health. To this end they perform many duties. They may prohibit the slaughter and sale of diseased animals for food purposes, prevent the pollution of streams and other bodies of water, compel and provide proper drainage and a system for the disposal of sewage, abate public nuisances, prohibit

[1] Bates, *Statutes*, §§ 2143-2147.

within thickly settled districts any industry which gives off noxious gases or offensive smells, and do many other things which we have not the space to discuss here.

Adulteration of food and drugs.

As adulterations of foods and drugs are dangerous to the public health, the State laws forbid the manufacture and sale of such products. The State defines the term "drug" to mean "all medicines for internal or external use," and the term "food" to mean "all articles used for food or drink by man." It further prescribes the standard of quality of these articles, defines what constitutes adulteration, and provides for officials to enforce the laws on this subject. The food and dairy commissioner in this State is elected by the people and prosecutes violations of the "pure food law," such as the adulteration of candy, vinegar, wines, coffee, butter, the manufacture and sale of oleomargarine, etc. Inspectors are appointed by the probate court of each county for the purpose of looking into the preparation of flour, biscuit, butter, lard, beef, pork, fish, oil, salt, liquors, and tobacco, and stamping the casks or boxes containing these articles with the kind, quality, and weight of the contents.[1] In addition, each municipality supervises its own markets.

Regulation of certain professions.

It is recognized that the practice of certain professions require police regulation by the State on account of the intimate relation of these callings to the public health. Thus the State prescribes the qualifications of physicians, dentists, and druggists, which are usually determined by examination. For physicians this examination is set by the State board of medical examiners, a body consisting of seven members appointed by the governor from the different schools of practice in the State. The

[1] Bates, *Statutes*, §§ (4200-1)-(4200-63), 4277-4355*c*.

person who successfully passes the test is entitled to a certificate, and without this he cannot practice within the State. Dentists receive their certificates from the board of dental examiners, and druggists from the Ohio board of pharmacy. Each of these boards consists of five members appointed by the governor from their respective professions. In this way the State seeks to restrict the care of the sick to competent persons, and thus to promote the health of the community.[1]

Plumbing.

It is worth noting also that the trade of plumbing is so important from a sanitary point of view that the State has been led to require plumbers located in cities to obtain licenses from the local board of health before engaging in their trade. Such licenses are issued on the recommendation of a local board of examiners, after testing the applicant's knowledge of plumbing, house drainage, and plumbing ventilation.[2]

Care of factory hands and miners.

Another phase of the care exercised by the State in behalf of the health of the community is shown in the factory laws. These laws have regard especially to the safety and health of workmen. They deal with such matters as the drainage, plumbing, and ventilation of bakeries; the safety of machinery and tools, of elevators and stairways; the provision of fire escapes, and dressing and wash rooms; the use of appliances to remove dust and other injurious substances; the floor space and air supply for employees, and the employment of young children for long hours and in dangerous places. The enforcement of these regulations is entrusted to a special officer, known as the State inspector of workshops and factories. Similar regulations

[1] Bates, *Statutes*, §§ 4403-(4412-10).
[2] *Ibid.*, §§ (4238-6)-(4238-9).

for mines are enforced by the State inspector of mines.[1]

55. Care of Public Morals

Relation of the State to public morals.

The State extends its police authority even into the realm of morals and undertakes to protect public morals. The justification for this is not far to seek. The happiness and security of a community depend largely on the moral ideas of its citizens. A people can not long be either prosperous or well governed unless as a rule they lead upright lives, employ their thoughts and energies about things conducive to their everyday welfare, and strive to elevate their lives.

Relation of the State to private morality.

The State does not try to regulate the private life of the individual, any more than it seeks to take care of his health. It does not set up a standard of morality to which individuals must conform: this is the business of a system of religion or philosophy, not—according to American ideas—of a civil government. The most the State does is to act in a prohibitory way, declaring on grounds of morality that certain things are detrimental to the public and shall not be permitted. Immoral acts and practices are prohibited, then, not to keep that person clean who would otherwise indulge his evil propensities, but because the moral tone of the community will be lowered if they are done.

Obscene literature.

On these grounds ordinances have been passed in every municipality in Ohio prohibiting the exhibition of lewd pictures, the posting of bills and advertisements that are obscene, the circulation of books and other literature of a corrupting nature. In general, it may be

[1] Bates, *Statutes*, §§ (4364-66)-(4364-89*j*), 4374-(4379-5).

said that an attempt is made to suppress all publications that tend to exert a depraving influence on the community.

Restraint of the liquor and cigarette traffic.

The demoralizing effects of the liquor traffic have brought it under restrictions. These restrictions consist in requiring a license of saloon keepers, compelling bar-rooms to be closed at certain times, making it unlawful to sell to minors or habitual drunkards, and giving opportunity to the people of a residence district, on petition, to exclude saloons from the neighborhood. For violations of such laws the dealer is personally liable, and the building in which the business is carried on is also subject to seizure and sale even if the building is the property of another. This last provision makes property-owners timid about renting to liquor dealers. The manufacture and sale of cigarettes is also surrounded by many restrictions.

Gambling.

Gambling and betting on games of chance tend to make men less thrifty, inculcate wrong ideas of the use of time and money, and turn men into non-producing members of society. To suppress these practices the laws prescribe a fine or imprisonment for the proprietors of gambling places and confiscation of the gambling devices. The family of a person who has lost money in gaming has the right to sue for its recovery. In other ways also both the State and city governments strive to put an end to these corrupting practices.

Cruelty to children and animals.

The moral sense of the community will not tolerate the neglect and abuse of children or of animals. Humane treatment is enforced through laws that prescribe the punishment of those found guilty of abuse. Voluntary societies are also formed for the prevention of

cruelty and these employ an officer to investigate cases of abuse and an attorney to prosecute offenders.

Sunday law

In Ohio, as in other States, the observance of Sunday as a day of rest is recognized to be in accord with the moral and religious sense of the people. Hence, the law declares it to be a finable offense to engage in common labor on the first day of the week. But the provisions of this law do not apply to "works of necessity or of charity," and do "not extend to persons who conscientiously observe the seventh day of the week as the Sabbath." By "works of necessity" are meant not only labor made necessary by an impending danger, but labor "incident to the general course of trade or business."[1] It is further provided that all meetings for religious purposes shall be unmolested and that all religious denominations shall have entire freedom of assembling and holding such devotional exercises as they see fit, unless they disturb the public peace.

56. Military Protection

Military protection, the last resort.

It sometimes happens that the ordinary civil power (which includes, of course, the police and judicial powers) finds itself unable to preserve the peace and protect the community. Occasions of this kind exist in times of riot, insurrection, or invasion. The State then has recourse to military protection, which is its last resort. For such military protection as it may need the State relies on its citizens.

Enrollment of the militi

All male citizens of the State and those about to become naturalized, who are between the ages of eighteen and forty-five, except persons exempt by law, are

[1] McGatrick *v.* Wason, 4 *Ohio State Reports*, 566.

enrolled by the local assessors as members of the State militia. This enrollment takes place every fifth year, counting from 1881. Certified copies of the lists made are sent to the auditor of the county and by him corrected and filed. The auditor transmits a copy of the persons enrolled in each assessment district of the county to the adjutant general. The governor may dispense with the enrollment if he thinks it unnecessary.

Classes exempted from service.

Those exempted from service are: (1) all persons in the army, navy or volunteer force of the United States; (2) those exempted by the laws of the United States; (3) those unfit by reason of permanent physical disability; (4) members of religious bodies whose articles of faith prohibit military duty; and (5) idiots, lunatics, and persons who have committed infamous crimes. A few other classes of persons are relieved from service except in case of war, insurrection, or invasion.

Unorganized and organized militia.

The enrollment serves only to create an undrilled reserve known as the "unorganized militia," on which the State may call for service as occasion may require. Besides this there is the organized or active militia, called the Ohio national guard, and the Ohio naval militia. The national guard consists of the staff of the governor, a medical department, a signal corps, a corps of engineers, and not to exceed one hundred companies of infantry, four batteries of artillery, two troops of cavalry, and one band for each organized regiment and separate battalion. These are allotted and apportioned in such localities of the State as the necessities of the service may, in the discretion of the commander-in-chief, require. They are organized, like the United States army, into brigades, battalions, regiments, and companies; and armories are provided by the State for

purposes of drill and the safe-keeping of arms, equipment, and other property of this body of troops. In time of war the governor may call for volunteer recruits to fill the companies, troops, and batteries of the unorganized militia to the maximum strength allowed by law, or authorize the temporary organization of additional forces, or he may do both. If it is inexpedient to call for volunteers, or the number of volunteer recruits and temporary organizations are insufficient, the governor may order a draft from the enrolled militia to be conducted by the county auditor in designated counties.[1]

Enlistment and equipment.

Enlistments in the national guard are made voluntarily in times of peace, and for a three years' term. Reenlistments may be made for one year. The recruits sign enlistment papers, which contain an oath of allegiance to the United States and the State. The members of the guard are equipped and uniformed in the same way as United States troops, the necessary firearms and other equipment being provided by the State. The adjutant general buys, cares for, and issues to the troops all military equipage and stores. Each company is required to assemble for drill once a week and to go into camp for from eight to fourteen days each year. When in the actual service of the State privates receive $2 a day and officers the same as officers of the same grade in the United States army.[2]

Military courts.

The discipline of the national guard is maintained under the military law of the State, the orders of the commander-in-chief, and the code of regulations of the militia. Any breach of discipline is dealt with by one

[1] *Ohio Laws*, vol. 95, 294; Bates, *Statutes*, § 3086.

[2] *Ibid.*, §§ 3056, 3070, 3075, 3079, 3081; *Ohio Laws*, vol. 95, 102.

or another of a system of military courts. The commander-in-chief may order a court martial for the trial of officers and enlisted men; or, upon the request of any officer against whom any accusation has been brought, he may order a court of inquiry, for the trial of such accusation or other investigation of the officer's conduct. In like manner the commanding officer of a regiment or battalion may appoint a summary court for the trial of offenses of enlisted men.

Officers of the national guard.

The governor is the commander-in-chief of the military and naval forces of the State, except when they are in the service of the United States. As such he appoints a military staff, the most important member of which is the adjutant general. The other officers, including general officers, field officers, and company officers, are elected by the ballots of the officers and men who serve under them. The highest ranking officer is the major-general, who is the commanding officer of the Ohio division, and is elected by the officers and men of the entire guard of the State.[1] In 1902 the guard numbered 6,466 men.

The naval brigade.

In addition to the companies of the national guard, the law provides for not more than eight companies of naval militia, organized into two battalions, and known

[1] In the Spanish-American War that portion of the United States Volunteer Army allotted to Ohio was almost wholly supplied by the Ohio national guard. On the first call of the President for volunteers the strength of the guard was increased to almost the maximum allowed by the law of the State. On the President's second call recruits were mustered to fill the companies in the field to the maximum required by the United States law. The transfer of the guard from State to Federal service was effected by a grant of leave of absence from the former: *Adjutant General's Report for 1898*, 10, 17, 19.

as the naval brigade. The governor as commander-in-chief has power to increase this force in time of war, and may disband the battalions or any division of them whenever he thinks advisable. The uniform, discipline, and regulations of the brigade are the same as those used in the United States Navy; and the same amount of duty is required of this body each year as is required of the national guard. Discipline is enforced by a system of military courts. The brigade is under the command of a captain, who is chief of brigade, and a staff of other officers. Each battalion is commanded by a lieutenant commander and staff, and each division by a lieutenant and other officers. Officers and men receive the pay of the same relative ranks in the national guard. The naval force, like the guard, may be called into active service in time of war, insurrection, or invasion.[1] In 1902 the brigade numbered 310 men.

[1] Bates, *Statutes*, §§ (3056-6)-(3056-31).

CHAPTER IX

THE SUPPORT OF PUBLIC EDUCATION

57. References

Knight, *Land Grants for Education;* Blackmar, *History of State and Federal Aid to Education;* Hough, *Constitutional Provisions in Regard to Education in the Several States of the American Union* (published by the United States Bureau of Education); Adams, *Contributions to the Educational History of the United States* (United States Bureau of Education); Boone, *Education in the United States;* Hart, *Actual Government,* ch. 28, "Education;" Knight, "Educational Progress in Ohio" (in Howe, *Historical Collections of Ohio,* I., 137-149); White, "The School System of Ohio," in *Educational Review,* May, 1899; *History of Education in the State of Ohio, A Centennial Volume,* 1876; Hinsdale, "The History of Popular Education on the Western Reserve," in *Ohio Archaeological and Historical Publications,* VI.; *Ohio School Reports;* Nelson and Shaw, "The Consolidation of Country Schools," in *American Monthly Review of Reviews,* Dec., 1902; Knight and Commons, *History of Higher Education in Ohio* (United States Bureau of Education); *Catalogues* and *Annual Reports* of Ohio, Miami, Ohio State, and Wilberforce Universities.

Constitution of Ohio (1851), Art. VI., "Education;" Bates, *Annotated Ohio Statutes,* II. 2151-2260, "Schools," 2261-2280, "Colleges and Universities;" the *Harrison School Code; Annual Reports* of the State Commissioner of Common Schools.

58. Growth of the Public School System

The State and education.

The functions of the State that we have thus far considered are the administration of justice and the exercise of the police and military powers. These functions are

essential to government of any form, whether popular, aristocratic, or royal. Another function that must be regarded as essential to a popular government, like our own, is the support and encouragement of general education. In such a government the safety of its free institutions depends on the intelligence of the people. Education also increases the prosperity of the people, and helps to prevent pauperism and crime. For political reasons, therefore, if for no other, the State must provide the means of education. It must see to it that educational opportunities are open to all, and thus make every career possible to talent. These grounds justify the State in the support of education of every grade.

Congressional provision for schools.

The initiative in the establishment of our public schools was taken by the Federal Government. The congressional Land Ordinance of 1785, which provided the system of township surveys, reserved one of the thirty-six parts or sections of each township for the support of public schools; and the Ordinance of 1787, as a guarantee of good government and the happiness of the people, declared "that schools and the means of education shall forever be encouraged." When Ohio was admitted into the Union, Congress increased the land endowment for school purposes by giving lands equal to one thirty-sixth of the United States Military District, the Virginia Reservation, the Western Reserve, and such territory in the State as might afterwards be purchased from the Indians.

Township and city schools, 1802-1850.

The framers of the State constitution of 1802 acted on the policy thus begun by providing that the educational privileges of the new State should be open to all; but this clause was not lived up to, as we shall see. The organization of township schools during the early years

seems to have been left to the different rural communities, while city schools were organized under special charters, the earliest of which was granted in 1808. Popular education at the public expense did not, however, become the settled policy of the State until 1825. A law passed in that year imposed a general tax for the support of schools, and provided for their establishment in every township. Four years later the tax was increased, negro property owners were exempted, and colored children were excluded from the schools. Thus far there was no State supervision of schools, and no attempt to reduce them to a system. But in 1837 the office of State superintendent of common schools was instituted and maintained for three years; then it was abolished, but was revived again in 1843 under the title of State commissioner of common schools. Since that date the State has continued to exercise a supervision over the common schools through the commissioner. In 1848 one of the city charters, known as the "Akron law," was made general by an act of the legislature, which gave cities and villages the right to adopt it. In 1849 boards of education were empowered to establish high schools and schools of lower grades. By 1850 over sixty municipalities were enjoying graded schools.

Township and city schools since 1850.

The constitution of 1851 pledged the people of the State to preserve inviolate and undiminished all funds arising from donations made to the Commonwealth for educational purposes, and the legislature was empowered to increase these funds by taxation or otherwise for the benefit of a common school system. In 1853 a general school law was enacted. This law increased the school tax, placed the township schools under limited supervision of the township boards of education, provided for

the organization as separate districts of all cities and villages which, with the territory annexed, contained three hundred inhabitants, and gave boards of education the power to erect and equip school houses, and determine the taxes for school purposes. However, this law was inadequate to the educational needs of the rural communities. The city schools enjoyed the advantages of being graded and well supervised, while the township schools lacked these benefits.

Recent developments

This state of affairs remained substantially unchanged until 1892, when a great improvement was effected by the enactment of the "Workman" and "Boxwell" laws The Workman law gave the township board entire control of all the schools of the township, thus making possible the grading of these schools, the establishment of township high schools, and the appointment of competent supervisors. The Boxwell law, which was amended in 1902 and forms part of the new school code, provides high school facilities for pupils in country districts where no high school exists. This is done by conferring diplomas on all pupils who have satisfactorily passed the "Boxwell" examination at the completion of the course in the elementary schools of township and special districts. A diploma admits the holder to the district high school, if there is one; otherwise to one in the neighborhood, with tuition paid by the school board of the pupil's district. It should be added that a Boxwell diploma is good for admission to any high school in the State. The number of those who took the examination in 1902 was 14,346, of whom 4,607 received diplomas.

Centralization.

Still another law for the improvement of rural schools was passed in 1900 and, in amended form, has been embodied in the new school code.[1] This measure authorizes the abolition of the school sub-districts in every township where the majority of the electors vote for it. In this way townships are "centralized" for the purpose of supporting one or more central graded schools (sometimes called "union schools"). Such schools may include a high school course, if the township board of education so decides. The board of a centralized district is required to furnish transportation to and from school to all pupils living a half mile or more from the central building. The *School Report* for 1903 indicates that the number of townships fully centralized is seventy, and we are told that 150 others are partially centralized. Centralization has greatly enlarged the school attendance in many districts, and is facilitating the establishment of township high schools.[2]

Classification of high schools.

The lack of a definition of a high school in the educational laws of the State has worked great detriment to the school system for many years. There have been all sorts of high schools, some of which were only elementary schools under another name. To bring a degree of order out of this chaos, the Brumbaugh law

[1] See Sec. 3927-2.

[2] The following quotation from a recent article on "The Consolidation of Country Schools" will be of interest in this connection: "This township centralization of schools began at Kingsville, Ashtabula County [Ohio], in 1894. Five teachers are employed in the Kingsville school, and to it are brought all the children of the township (an area of twenty-five square miles), with the exception of two districts. Four wagons are required at a total cost of $97 a month, for the nine months of

was passed in 1902. This measure provides for a three-fold classification of high schools. In the first grade are placed those which offer courses of study covering four years, and require at least sixteen courses for graduation. The second grade includes all three year high schools requiring twelve courses for completion, while the third grade comprises the two year high schools with eight courses. A course of study in this connection means at least four recitations a week throughout the school year. This classification will furnish an incentive to lower grades to attain a higher grade.

the school year. There is an actual saving to the township under this plan, and, at the same time, a marked gain in attendance and in school efficiency. In Madison Township, Lake County, the superintendent reports the cost of tuition per pupil—on the basis of the total enrollment—as reduced from $16 to $10.48; and—on the basis of daily attendance—from $26.66 to $16.07. The total expense, however, is about the same as under the old plan, and this is explained by the fact that the school attendance has been increased from 217 to 300 pupils since consolidation was effected.

"The experience of two Ohio townships, in particular, has attracted the attention of school officers in other States, chiefly because both townships afford first-class examples of school centralization in a purely rural environment. Gustavus Township, Trumbull County, maintains a four-room school, with a principal and three assistants. Nine wagons are employed, which call at every farmhouse in the township where there are children. The drivers are required to have the children on the school grounds at 8.45 a. m., and to leave for home at 3.45 p. m. The cost of this transportation averages $1.25 a day for each wagon, the longest route traversed being four and three-fourths miles in length. In the adjacent township of Greene the same policy of centralization was adopted, and bonds were voted for a $6,000 eight-room brick school building, heated by steam and provided with every modern convenience—this in the center of the twenty-five square miles of farming country, remote from village or railroad. This township, like its neighbor, reports signal gains in attendance under the new plan." *American Monthly Review of Reviews*, Dec., 1902, pp. 707, 708.

School Code of 1904.

In 1904, the legislature capped the series of laws discussed above by a general revision of our school legislation. Special acts, which indeed the State constitution forbade, had produced a confusing diversity in school matters. For example, school boards differed widely in regard to their powers, method of election, number of members, and terms of office. The Harrison school code of 1904 thus arose from the conditions that led to the new municipal code in 1902. The Harrison code preserves the best features of the former laws, secures uniformity for school districts of each class, and makes many other improvements.[1]

59. Administration of the School System

Attendance.

The public schools have been established to provide the essentials of an education for the youth of the State. School privileges are offered freely to all between the ages of six and twenty-one, but the State insists that the privileges which it so freely supplies shall not be wholly neglected by any. A law enacted in 1890 and amended in 1902 requires all children to be instructed in reading, spelling, writing, English grammar, geography, and arithmetic. Those between the ages of eight and fourteen years must attend a public, private, or parochial school for the full time that the school attended is in session, which in no case may be less than twenty-four weeks, and the attendance must begin within the first week of the school term. All children between the ages of fourteen and sixteen years, not engaged in regular employment, are also required to attend. So are all

[1] Consult the new *School Code.*

minors between these ages who cannot read and write the English language. Children may be excused from attendance by the proper school authorities of the locality on account of physical or mental condition, or when taught at home by some qualified person. Employers are prohibited from taking a youth under sixteen years of age into their service while the schools are in session, unless the above requirements have been complied with. Boards of education are obliged to employ truant officers to enforce this act. Pupils guilty of habitual truancy or of incorrigible conduct in school may be prosecuted as juvenile disorderly persons and committed to a children's home or juvenile reformatory. Parents, guardians, school officers, or employers who violate this law are also liable to prosecution.[1]

State school officers.

The general supervision of the schools throughout the State is entrusted to the State commissioner of public schools. He has oversight of the educational funds of the State, collects the school statistics, holds conferences with school boards and teachers, enforces the law requiring the holding of teachers' institutes, recommends legislation for the schools, publishes an annual report, and appoints the State board of school examiners. This board consists of five members who serve for five years. Its business is to examine such teachers as apply for life certificates, and these certificates are valid in any school district in the State.

County and city boards of examiners.

There are also county and city boards of school examiners, which issue teachers' certificates good only in the district where issued and limited in duration to one, two, three, five, or eight years, as the case may be. Applicants for a life certificate must pay a fee of five

[1] *Ohio Laws*, v. 95, 615-622; *School Report for 1902*, 12.

dollars; applicants for a county or city certificate are charged a fee of fifty cents. All certificates are revocable for cause. The county board consists of three members appointed for three years by the probate judge; the city boards comprise three members appointed for the same term by the boards of education of the respective city districts. The teacher's certificate is a sort of diploma licensing the owner to teach the subjects named in it, and no teacher may be employed in the public schools who does not hold an unexpired certificate.

Teachers' associations.

Teachers seek improvement in their profession through associations known as "teachers' institutes." The law recognizes three kinds of these associations, namely, county institutes, joint county institutes, and city institutes. Only a few of the largest cities hold institutes of their own. The meetings usually occur each year, the expenses being provided for by membership fees, the fees from teachers' examinations, and sums voted by the boards of education for the purpose. During the year 1902 every county in the State except two held an institute, and the number of teachers in attendance was 17,358. The Ohio Teachers' Reading Circle supplements the work of the institutes by laying out helpful courses of reading in pedagogy, literature, and history, and recommending books in other subjects. The membership amounted to 7,368 in 1902.[1]

School districts, and school boards.

Teachers are employed by the board of education, which is the responsible body in the administration of the school affairs of its district. There are four classes of school districts, namely, township, city, village, and special districts. Each civil township constitutes a school district, and as such may have territory

[1] *School Report for 1902, 72, 21-23.*

included or excluded for school purposes. Every township district has its board of education consisting of five members elected at large for four years. Formerly every township was divided into sub-districts, each of which had to support at least one school, but the new school code permits the township board to suspend sub-district schools and have the pupils conveyed to one or more central buildings. In uncentralized districts it is necessary to have some one to look after the school property in each sub-district. Hence the code provides for the annual election of a director in these subdivisions to serve under the control of the township board. In city districts the board of education is large or small, according to local preference, but in cities of less than 50,000 inhabitants it consists of from three to seven members, who are elected at large. In all the other cities the board consists of from two to seven members elected at large and of from two to thirty elected by sub-districts. The term of office is four years. The number of members and sub-districts were fixed by the old school board in each city when the code went into effect (July, 1904). The board of education of both village and special districts consists of five members elected at large for four years. A special district is one that is not included within a city or village. Its territory must have a tax valuation of not less than $100,000. Women who have the qualifications of male electors, and are native-born or are the wives or daughters of citizens of the United States, may vote and be voted for in the election of members of the board of education.

Duties of school boards.

Each board of education is required by law to do certain things. Thus, it must provide a sufficient number

of elementary schools for the youth of the district; each township board must maintain at least one elementary school in each of its sub-districts, unless transportation is furnished to the pupils, and all boards must render annual reports to the auditor of the county. School boards are authorized to buy and sell property and erect school houses. They appoint and dismiss superintendents, principals, teachers, and other employees, and fix their salaries. They establish the rules of discipline which these persons enforce in the management of the schools. They prescribe a graded course of study, but must include among the branches to be taught, the study of physiology and hygiene and the effects of alcoholic drinks and narcotics. They may introduce kindergarten, manual training and commercial courses. They select the text-books from lists previously made up and approved by the State school book commission, and may furnish free text-books for the use of the pupils if they see fit. They regulate the length of the school year at from thirty-two to forty weeks.

School and other libraries.

Another thing that boards of education are authorized to do is to appropriate money annually for school libraries suitable to the use of teachers and pupils. In addition to these libraries, the law provides for township and municipal libraries, a State library, and a State law library. The last two are supported out of the State funds, and are located in the State House at Columbus. The State library seeks to extend its privileges to all by means of "travelling libraries." These are small collections of books which may be borrowed for three months or more by any association of citizens, school board, or local library. Most cities and villages support their own free library, which is in charge of a board of six

trustees. In cities where a free library is provided by a private association, the council is empowered to levy a tax for its support. A township containing a village with a thousand inhabitants or less may establish a public library by vote of the township electors.

Miscellaneous provisions.

Ohio, like some other States, seeks to cultivate the spirit of patriotism by requiring all boards of education to display the United States flag upon the school houses under their control during all-day sessions of the schools in fair weather, and inside of the school houses on all other days. Washington's Birthday and Memorial Day are regarded as legal holidays, and the school authorities are permitted by law to dismiss the schools on these days, as also on any other day set apart by the President of the United States or the governor of the State as a day for fasting or thanksgiving. The appropriate celebration of "Arbor Day" is provided for in two laws enacted in 1902 and 1904. The former requires the governor to appoint a day in the spring of each year on which those in charge of State institutions of learning and of public schools shall instruct the students and pupils concerning the value and interest of forestry and the protection of birds. The other measure requires the State school commissioner to prepare annually for distribution a manual for Arbor Day exercises. These exercises must include the reading by the teacher of Section 12 of the Act of April 25, 1904, prohibiting the molestation of certain song and insectivorous birds. Such enactments show the great care exercised by the Commonwealth in the proper training of her future citizens.

[1] Sec. 12 reads as follows: "No person shall at any time catch, kill, injure, pursue, or have in his possession either dead or alive, or purchase or expose for sale, transport or ship within or with-

60. Financial Support of the Public Schools

School revenues.

The annual expense of maintaining the common schools is very great, and is provided for in various ways. The necessary revenues are derived from the following sources: the common school fund, the State common school fund, the contingent fund, moneys obtained by the sale of lands, and moneys realized from fines, licenses, tuition, etc. (1) The common school fund has been created by the sale or rental of the school lands granted by Congress and the salt and swamp lands devoted by State action to school uses. This fund constitutes an irreducible debt on which the State pays six per cent. a year. The income thus produced is dis-

out the State any turtle or mourning dove, sparrow, nuthatch, warbler, flicker, viroe, wren, American robin, cat-bird, tanager, bobolink, blue-jay, oriole, grosbeak or red bird, creeper, redstart, wax-wing, wood-pecker, humming-bird, killdeer, swallow, blue-bird, black-bird, meadow-lark, bunting, starling, red-wing, purple-martin, brown-thrasher, American goldfinch, chewink or ground-robin, pewee or phoebe-bird, chickadee, fly-catcher, gnat-catcher, mouse-hawk, whippoorwill, snow-bird, titmouse, gull, eagle, or buzzard, or any other wild bird other than a game bird, unless said bird was in captivity prior to May 6th, 1902. No part of the plumage, skin, or body of any bird protected by this section shall be sold or had in possession for sale except as permitted in section 13 of this act. No person shall at any time disturb, or destroy the eggs, or nests, or young, of any of the birds named in this section. Provided, that nothing in this section shall prohibit the killing of the chicken-hawk, Cooper hawk, blue-hawk, sharp skinned hawk, crow, great horned owl, or English sparrow, or the destroying of their nests. Provided further, that nothing herein contained shall prohibit the owner or duly authorized agent only of any premises from killing blackbirds at any time, except Sunday, when they are found to be a nuisance or are injuring grain or other property."

tributed only among the townships and districts to which the lands belong. It amounted to more than $249,000 in 1902. (2) The State common school fund is derived from a uniform levy of one mill on each dollar of taxable property in the State. It is apportioned among the counties, districts, and sub-districts on the basis of their school populations. The tax brought in about $1,818,000 in 1902. (3) The contingent fund is raised by local taxation levied by the school boards in their respective districts when the State funds are insufficient. This source produces by far the greatest part of the school revenues. It amounted to more than $12,000,000 in 1902. (4) A district lacking the money to provide increased school accommodations may vote a special tax for one or more years, and sell bonds to obtain the money at once. The total sum raised in this way varies from year to year. In 1902 it amounted to more than $1,000,000. (5) A fifth source of revenue comprises certain fines and licenses, the tuitions paid by non-resident pupils, and other small amounts from a variety of sources.[1] These miscellaneous items produced about $782,000 in 1902. All these funds together make possible an annual expenditure for public school purposes of more than $14,000,000.[2]

61. Institutions of Higher Learning

Institutions of higher learning of the State.

A law enacted in 1902 defines a college "as a school of higher grade than a high school, in which instruction in the high school branches is carried beyond the scope of the high school, and other advanced studies are pur-

[1] A list of the fines, penalties, etc., is given on p. 12 of the *School Report for 1901.*

[2] *School Report for 1902,* 69.

sued, or a school in which special technical or professional studies are pursued." Such a school, the law continues, "may, when legally organized, have the right to confer degrees in agreement with the terms of the law regulating its practice or its charter; or in the want of legislative direction, in agreement with the practices of the better institutions of learning of their respective kinds in the United States." While there are numerous institutions in the State which fit this definition,[1] there are only four to the support of which the State contributes by general taxation. Three of these—Ohio University at Athens, Miami University at Oxford, and Ohio State University at Columbus—were founded on land grants from the Federal Government; and the fourth—Wilberforce University near Xenia—is an institution for the advanced instruction of colored youth.

Ohio and Miami universities.

Ohio and Miami universities were founded on the first land grants ever made by Congress for the endowment of institutions of advanced learning. Two townships were obtained by the Ohio Company, and were used for the establishment and support of Ohio University, which was chartered under its present name in 1804. One township was received by the settlers of Symme's Purchase, who devoted it to the endowment of Miami University. This institution was incorporated in 1809, but was not opened until 1824. Neither of these colleges was favored with State aid until 1881, when both began to receive small annual appropriations from the State. They are managed by boards of trustees appointed by the governor. By an act of the legislature passed in March, 1902, the trustees of both institutions were authorized to establish State normal col-

[1] *The School Report for 1901*, 332, gives a list of thirty-seven.

leges in connection therewith. The support for these normal schools is provided by a special tax of one-thirtieth of a mill on each dollar of the valuation of the taxable property of the State. This levy produces an annual income of about $65,000, which is divided between Ohio and Miami universities in the ratio of seven to five. These are the first normal schools established by the State, but normal departments have been in existence for several years both at Ohio University and at Ohio State University. Normal instruction has also been given by teachers' institutes, the training schools of our principal cities, and by private and sectarian colleges in the State, including eight normal colleges. In 1903 Ohio University had 28 instructors and 419 students, and Miami University 15 instructors and 124 students.

Ohio State University.

Ohio State University was established as the result of the congressional legislation of 1862, which has produced a class of great State universities. This legislation, which applied to all the States, gave to each a quantity of land, or its equivalent in land scrip, for the endowment of at least one college in which branches related to agriculture and the mechanic arts should be taught, "without excluding other scientific and classical studies." Ohio received the value of 630,000 acres, which was converted into a permanent fund for the proposed college. Franklin county gave $300,000 and the city of Columbus $28,000 to secure the location of the college at the capital of the State. The university was founded in 1870 and received its present name in 1878. By general taxation the State provides it with an annual income, which amounted to $300,000 for the year 1903. Its revenue from all sources for the same

year was $416,700. The institution has grown rapidly and now embraces six colleges, as follows: the College of Agriculture and Domestic Science, the College of Arts, Philosophy, and Science, the College of Engineering, the College of Law, the College of Pharmacy, and the College of Veterinary Medicine. It has 146 instructors and 1800 students. Its board of seven trustees is appointed by the governor. Members of the legislature are each entitled to designate a youth from their respective districts to receive instruction in the agricultural department free of tuition.

Wilberforce University.

Wilberforce University was founded in 1856 for the advanced education of colored youth, and is under the supervision of the African Methodist Episcopal Church. In 1888 the State established a normal and industrial department here, and has since contributed to its support. Each member of the legislature has the right to select a youth from his district to receive the benefits of the department free of tuition. In 1901 Wilberforce had 20 instructors and 341 students. Besides the institutions mentioned above there are in Ohio thirty-three other colleges and universities with a total attendance of about 7500 students. These are supported by private endowment and tuition fees.

CHAPTER X

THE SUPERVISION OF CHARITIES AND CORRECTIONS

62. REFERENCES

Lalor, *Cyclopaedia of Political Science,* "Charity, Public," "Charity, State," "Pauperism," "Prisons and Prison Discipline;" Ford, *American Citizen's Manual,* Part II., "Charitable Institutions;" Ellis, *The Criminal* (in Contemporary Science Series); Pierce, *Half Century of Juvenile Delinquents; American Review of Reviews,* XVI. p. 471*ff*; Orth, "The Centralization of Administration in Ohio" (*Columbia University Studies in History, Economics, and Public Law,* XVI., No. 3), ch. 3, "Charities and Corrections."

Constitution of Ohio (1851), Art. VII., "Public Institutions;" Bates, *Annotated Ohio Statutes,* I. pp. 385-445, "Benevolent Institutions;" pp. 148-1060, "Hospitals, Infirmaries and Children's Homes," pp. 995-1034, "Reformatory Institutions and Prisons;" II. pp. 3484-3511, "Jails and the Penitentiary;" *Proceedings* of the National Conference of Charities and Corrections; *Annual Reports* of the Board of State Charities; *Annual Reports* of the superintendents of the various institutions in the *Executive Documents* published by the State; Bates, *Annotated Ohio Statutes,* III. index, under the names of the various benevolent and correctional institutions.

63. PUBLIC CHARITABLE AND CORRECTIONAL WORK

The nature of charitabl and correctional work.

It has already been said that the educational work of the State is intended to increase the intelligence and prosperity of the people and to prevent pauperism and crime. While education is able to do much for society, it is inadequate to supply the deficiencies of certain classes in the community. These are the dependent,

defective, and delinquent classes, which are the recipients of such care and aid as private charity can bestow, but which also need the supervision of the State and local governments. This work of supervision is commonly called "the supervision of charities and corrections." It is carried on at the public expense because both the interests and sentiments of the community demand that the poor and the helpless shall be relieved as far as possible, and that the delinquent or criminal class shall be punished and, if possible, reformed.

The dependent class.

The dependent class includes (1) the poor who by reason of misfortune need temporary aid from the public; (2) the aged and infirm who lack both means and friends, and therefore require permanent relief; (3) the indigent sick who must be cared for until they are able to support themselves; (4) needy veterans of war and those dependent on them, who are provided for on account of the patriotic feeling of the public, and (5) children who are left without homes, or are neglected by their parents.

The defective class.

The defective class comprises those who require support and special treatment on account of some physical or mental disability or disease. The blind, deaf and dumb, epileptic, feeble-minded, and insane belong to this class. These people are gathered into hospitals and asylums where they receive special medical attention. The blind, deaf and dumb, and feeble-minded are provided with special schools, and are trained in such occupations as will help them to earn a livelihood. Many of the epileptics, feeble-minded, and insane are sufficiently restored to render them capable of self-support. Those who cannot be cured are cared for under proper restraint throughout their lives.

The delinquent class is made up of offenders against the law, whether these be youthful offenders and adults new to crime, or confirmed criminals. Justice requires that persons of this class shall be punished for their offenses. The public policy has been to provide reformatories and industrial schools for those who are beginners in crime, where they can have better associations, a milder discipline, and more sympathetic training than they could have in ordinary prisons. The object of this method is of course the elevation and reform of those subjected to it. For persons convicted of petty offenses local prisons, jails, and work-houses are provided, while those convicted of serious crimes are confined in the State penitentiary for a term of years.

The delinquent class.

64. Supervision of Charitable and Correctional Institutions

The care of the classes above described falls to both the State and local governments, which together support the necessary public institutions. In order that these institutions may be properly managed under adequate supervision, the law provides for a board of State charities and boards of county visitors. The State board is composed of six members, appointed by the governor under the restriction that not more than three may belong to the same political party. The members serve for three years without pay. The governor is himself president of the board, which is required to keep in touch with the whole system of charitable and correctional institutions of the State, including those of counties and cities. By order of the governor, the board may conduct an investigation into the affairs of any of these institutions; and it must submit an annual

The board of State charities.

report on their condition, with such suggestions as may seem necessary and proper. It is also authorized to consider and pass on all plans for new jails, infirmaries, children's homes, and similar public institutions.

Boards of county visitors

The work of the board of State charities is supplemented by that of the boards of county visitors. Each county has its own board, consisting of six persons—three of whom are women—appointed by the presiding judge of the common pleas court of the county, or by the probate judge in counties having no resident common pleas judge. The visitors serve for three years without compensation. They keep themselves advised of the condition and management of all charitable and corrective institutions of their respective counties supported in whole or in part by county and municipal taxation. They also publish an annual report, one copy of which is filed with the county clerk, and another copy with the board of State charities.

65. The Care of the Dependent or Poor

Care of township and city poor.

Our poor laws recognize the obligation of each local division to care for its own poor. Thus it is made incumbent on the trustees of a township to afford temporary relief to the poor of the township, and this relief may include medical relief and medicines. The expense thus incurred is paid out of the "poor fund," which is raised by a tax levied by the trustees. In like manner the proper officers of municipalities must afford public support or relief to such of the citizens as are entitled to it. This sometimes takes the form of "outside relief," which includes contributions of coal, groceries, and clothing from the city poor department to those who are only partially able to support themselves.

Or it may take the form of admission to a city institution for those who are permanently or temporarily helpless and dependent. Only the wealthier cities are able to maintain such institutions. When they are able, they may be found taxing themselves to provide local infirmaries for their helpless poor, orphans' asylums and children's homes for neglected or vagrant children, free hospitals for the needy sick and injured, and pest-houses for those of this class who are suffering from contagious diseases.

Care of the county poor.

The county, like the smaller divisions, undertakes to supply both "outside" and "indoor" or institutional relief, but limits its operations for the most part to those in need of permanent relief. When, therefore, the township trustees or municipal officers find persons in their districts who are entitled to permanent relief, they are authorized to apply to the infirmary directors of the county for such relief. Persons for whom application is made must have obtained a "legal settlement" in the county, that is, they must have previously supported themselves for twelve consecutive months in the county. If, after investigation, the directors are satisfied that the persons in question should become a charge on the county, they must receive them into the county infirmary, or furnish them with relief outside of the infirmary. If the directors find reason for denying the relief sought, they have the authority to direct the township trustees to grant township relief. But in case they learn that a pauper has a legal settlement in some other county, it is their duty to have him removed to the infirmary of that county. Any person admitted to the infirmary who has real or personal property is charged for the cost of his maintenance. The infirmary is not the only char-

itable institution supported by the county. Fifty out of the eighty-eight counties of the State maintain children's homes. A children's home may be established by the county commissioners when they think it justifiable, or when they are petitioned to do so by two hundred taxpayers of the county. Each home is under the charge of a board of trustees, who act as guardians for the children, and are empowered to place them with good families. A school is provided at each home out of the county school fund.

Care of destitute veterans and their dependents.

The State itself provides for such of its destitute citizens as have been permanently disabled by service in any of the wars of the United States, and have received an honorable discharge from that service. It also extends aid to the nurses and the dependents of the veterans of the Civil War. The Soldiers' and Sailors' Home at Sandusky, which is supported by the State, has recently been supplemented by the establishment at Madison of the Home of the Ohio Soldiers, Sailors, Marines, their Wives, Mothers and Widows, and Army Nurses. The United States maintains a National Soldiers' Home at Dayton as a separate institution. The destitute children of veterans of the Civil War, whether orphans or not, are cared for by the Soldiers' and Sailors' Orphans' Home at Xenia. These persons are usually kept in the home until sixteen years of age, but girls and disabled boys are permitted to remain until eighteen. They are instructed in industrial, as well as the common branches. On their discharge from the school they are entitled to their net earnings for the two years previous. The trustees of the institution are at liberty to find homes for the children with worthy families, but continue to exercise oversight over discharged pupils, and must report to the governor on the

subsequent careers of their wards. Each county is entitled to make use of the home in proportion to its population.[1]

66. The Care of Defectives

State institutions for defectives.

The class of defectives comprises the blind, deaf and dumb, epileptics, feeble-minded, and insane. The State supports ten institutions for these unfortunates, including asylums, hospitals, and schools. These institutions are managed on the same general plan. Each has five trustees appointed one each year by the governor for a five years' term. The trustees appoint the superintendent, steward, matrons, physicians, and other employees of their respective institutions, fix all salaries, and make the rules for the guidance of their appointees. They receive only their expenses for attending the meetings of their several boards. Each board renders an annual report to the governor.

Institutions for the blind and deaf and dumb.

The institutions for the blind and deaf and dumb are both located at Columbus. They are designed as schools in which certain arts and trades shall be taught, besides the common branches. The blind are taught to read by means of raised characters over which they run their fingers; and the deaf and dumb learn to converse by the use of the finger alphabet. Children to be admitted to either institution must be of good intellect and morals. In the case of the Institution for the Blind applicants are received who are between the ages of eight and twenty-one years, and persons over twenty-one may be admitted for one year for the purpose of learning a trade.

[1] Bates, *Statutes*, §§ 675 to 675-5.

In the case of the Institution for the Deaf and Dumb, children over seven are received, and may remain for a period not to exceed twelve years. The State bears the expense of the instruction given to both classes of defectives, but parents are expected to furnish clothing and books. Where this is impossible the county from which the applicant comes is required by law to do so.

Ohio Hospital for Epileptics.

Ohio was the first among the States to provide a separate hospital for epileptics.[1] This institution is located at Gallipolis, and receives patients from all parts of the State, the number allowed to each county being apportioned according to population. Persons who are not residents of Ohio may enter by paying for their treatment.

Institution for Feeble-minded Youth.

Children possessed of weak and deformed minds are eligible to the Institution for Feeble-minded Youth at Columbus. They must, however, have been residents of the State for at least one year, and must be between the ages of six and fifteen. Non-residents are admitted for pay. The pupils are given special training according to their defects, and derive great benefits from agricultural and mechanical pursuits. By these means some are relieved from the pitiable condition in which they have formerly lived, and are enabled to support themselves.

Hospitals for the insane.

There are six hospitals for the care and treatment of the insane; one near each of the cities of Cleveland, Columbus, Dayton, Athens, Toledo, and Massillon. The Longview Hospital near Cincinnati is maintained by Hamilton county, assisted by the State. Each hospital has a certain district from which it receives patients. Application for admission is made to the superintendent

[1] *Review of Reviews*, vol. XVI. 471.

through the probate judge. The patients are under the constant care of medical specialists, and their lives are made as pleasant as possible by the service of sympathetic attendants, and by cheerful surroundings. Not all insane persons are cared for in the State hospitals. A large number are to be found in the county infirmaries. In 1903 the secretary of the board of State charities reported that, besides the 8,359 insane then under hospital treatment, there were 963 in our infirmaries.[1]

67. The Custody of Delinquents

Municipal penal and correctional institutions.

The custody of delinquents, or those who are offenders against the law and have to undergo sentence for their misdeeds, is entrusted to municipalities, counties, and the State. Every municipality has its city prison for the safe-keeping of persons convicted in the municipal court of petty crimes and offenses against the local ordinances. In some cities there is also a work-house to which vagrants and other offenders are sent to work out the penalties imposed by the local court. These penal institutions are supplemented in certain cities by houses of correction and refuge, which are institutions of a reformatory type. To these local reformatories children under sixteen years of age may be committed by the mayor or any judicial officer of the county on account of depravity or incorrigibleness, or lack of a proper home or livelihood.[2]

County penal and correctional institutions.

The county is required to provide a jail for the confinement of persons awaiting trial, or those condemned to imprisonment here instead of in the State peniten-

[1] Secretary Shirer kindly supplied these figures.

[2] Bates, *Statutes*, §§ 2095 ff; 2031 ff.

tiary. The jail is managed by the sheriff under rules prescribed by the court of common pleas. By popular vote the commissioners of adjoining counties may be authorized to erect a work-house as a place of punishment for certain classes of offenders from the counties concerned. In addition to these penal institutions many counties maintain a reformatory, known as a home of the friendless, for vicious and for helpless women. In these counties a woman convicted of certain offenses may be committed either to the State Industrial Home for Girls or to the county home, as the court may think best. Only women are received in this way, and those sent by the court must be over sixteen years of age and guilty of an offense punishable by imprisonment in the county jail. Helpless women and girls are sometimes admitted on application. Inmates may be bound out to service as apprentices or servants under the guardianship of the trustees of the home.

Juvenile courts.

Another reformatory agency is the juvenile court recently authorized for certain counties. It tries cases of destitute, neglected and incorrigible children who are under sixteen years old. When desirable it places its wards in private families or correctional institutions under the oversight of the probation officer of the court.

State reformatories for youthful offenders.

The State maintains two industrial reform schools for youthful offenders, and a reformatory and a penitentiary for older criminals. Boys between the ages of ten and sixteen convicted of an offense against State law are committed to the Boys' Industrial School, and are kept there until of age unless earlier reformed. This institution is situated near Lancaster and has over eight hundred inmates. The boys do much of the mechanical and industrial work about the school farm, and are

also taught the trades of shoe-making, printing, and telegraphy. A similar institution for girls, known as the Girls' Industrial Home, is situated near Delaware. Those sent to this institution are between nine and sixteen years of age, and have been guilty of an offense punishable by fine or imprisonment, except imprisonment for life, or they are known to be leading vicious lives. They continue in custody until they are twenty-one, unless previously discharged or bound out to service. The home comprises eight cottages, a hospital, a library, and a large school building. Each cottage accommodates from forty to fifty girls, and is under the charge of a matron, and the entire home is managed by a superintendent. The girls are given regular instruction and employment. Those who receive an honorable dismissal are given a sum of money out of a fund accruing from the profits of the institution, and thus are not permitted to go out into the world empty-handed.

The Ohio State Reformatory.

The State Reformatory receives all criminals convicted for their first offense, except those sentenced to imprisonment for life, or those whose youthfulness admits them to the reformatories described above. The primary aim of the institution is the reformation of the convicts, and to this end a milder discipline is practiced than in the penitentiary. The expenses of the reformatory are paid out of the funds derived by the State from the traffic in intoxicating liquors.

The Ohio Penitentiary.

Persons whose age and criminal record do not warrant their confinement in any of the reformatories or in a county jail are sent to the State's prison for such a term as the court may determine. Prisoners not sentenced for life may reduce their terms by good conduct,

or be released on parole. The convicts are kept in close confinement, except when engaged at hard labor, and are not allowed to speak to each other unless granted the privilege as a holiday favor. They are employed in the manufacture of products for outside firms under the contract system, and of all articles used at the various State institutions. A share of each prisoner's earnings is set aside for him or his family, but twenty-five per cent. of this amount is reserved to be paid to the convict at the time of his release. The government of the penitentiary is vested in a board of five managers appointed by the governor for five years at an annual salary of $1,000 each. This board appoints the warden, prison guards, and other officers. It also makes contracts with manufacturers for the employment of prison labor at a rate of not less than seventy-five cents a day for each convict, but in so doing it must observe certain conditions in order to restrict competition between convict and outside labor.

Commutation of sentence.

Inmates of the penitentiary who seek a pardon, commutation of sentence, or reprieve, must apply to the State board of pardons, which was established by statute in 1888. Before the year mentioned the pardoning power rested with the governor alone. The governor appoints the four members of the board, two for two years and two for four, giving equal representation to two political parties. At least three of the members must sanction any recommendation of a pardon before it can be made by the governor, but the governor may act independently if he thinks public interests require it. The inmate of a reformatory may be recommended for pardon by its board of managers without the intervention of the State board.

CHAPTER XI

THE CONTROL OF ECONOMIC INTERESTS

68. References

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Bates, *Annotated Ohio Statutes,* §§ 3107-59 to 3107-125, "Public Lands;" §§ 405 to 409, 4216 to (4221-6), (6968-1) and (6968-2), "Fish;" §§ 6959-6968*b*, "Birds, Game and Fish;" §§ (409-15) to (409-19), "Forestry Bureau;" §§ (3691-25) to 3713-11, (4446-7) to (4446-15), 4210 to 4212, "Agriculture;" §§ 4364-62 to 4365, 6984, (6986-1), 307 to 310, "Labor;" §§ 142-146, 1054 to 1057, 1051, 1062, 4428 to 4446, "Weights and Measures;" §§ 2582 to 2596-9, 4277 to 4355*c*, "Inspection;" §§ (4227-1) to (4427-12), "Trusts; §§ 4615 to 4946, "Public Ways and Bridges;" §§ 218-66 to 218-304, "Canals;" §§ 4380 to 4385, "Navigation;" §§ 3141 to (3170-7), "Partnerships;" §§ 3232 to (3884-6), "Corporations;" *Constitution of Ohio,*

Art. XIII., "Corporations;" 97 *Ohio Laws*, see index under the following subjects,—"Birds, Fish and Game," "State Board of Agriculture," "Agricultural Experiment Station," Commissioner of Labor Statistics," "Chief Inspector of Workshops and Factories," "Labels and Marks," "Bridges," "Board of Public Works," "Corporations," "Insurance Companies," "Superintendent of Insurance," "Railroads and Railway Companies," etc.; *Reports* of the Agricultural Experiment Station, the Board of Public Works, the Canal Commission, etc.

69. Economic Functions of the State

Relations of governments to economic interests.

Governments bear a twofold relation to economic activity: (1) they render certain economic services to society; (2) they exercise a limited control over the economic services rendered by individuals. While there is much difference of opinion as to the extent to which governments themselves should own productive property, there is a general agreement that certain classes of property should be owned and controlled by the State. The public benefit derived from some enterprises is valuable, but at the same time of too indefinite a nature to engage private capital. There are other industries of such a character as to make it undesirable to leave their control to private corporations or to individuals. Such economic interests as these naturally fall to the State. The State itself supports and manages them.

Basis of the State's control of enterprises.

The State's relation to the economic interests of individuals, on the other hand, is expressed in governmental regulation of private business enterprises. How far the State may go in its regulation is a matter of contention. The welfare of society is the end of industrial organization, and this principle determines in large measure the extent of public control. It is on the basis of this principle that the State guarantees the validity of contracts, regulates the hours and conditions of labor in mine and

factory, protects industrial property, regulates freight rates and rates of interest, provides for the inspection of food products, and does many other things.

Subject matter of economics.

As economics deals with the production, exchange, distribution, and consumption of wealth, the State is concerned with whatever will promote production, facilitate exchange, bring about a fair distribution, and prevent a wasteful consumption of wealth.

Forms of industry.

The production of all wealth involves a coöperation of land, labor, and capital. These factors are combined in four forms of industrial undertakings, agriculture, manufacture, mining, and commerce. It is the purpose of this chapter to point out what Ohio is doing to promote these industrial interests. The State's relation to the three factors, land, labor, and capital, will be taken up in order.

70. Lands

Public lands.

The State owns but little land except what is needed for the operation of its canals and for the use of its public institutions. This is accounted for by the fact that most of the public lands were early disposed of at a sacrifice to actual settlers for the purpose of developing the resources of the State. The lands were sold to the pioneers at a discount of seventy-five per cent. of their appraised value. The lands remaining were for the most part either lands lying near the public works of the State or swamp, marsh, and over-flow lands that were unfit for occupancy. The former were located by the board of public works, under an act of 1868, and were reported to the State auditor, who was authorized to sell them at not less than their appraised value. The latter were recorded by the canal commission, under an act of

1889, and were likewise reported to the auditor, the canal commission being empowered to sell these lands to the highest bidder in tracts not larger than a quarter section. A law regulating the sale of the swamp lands more recently reclaimed stipulates that the selling price must not be less than three-fourths of the appraised value.[1]

State parks and pleasure resorts.

Certain State lands and reservoirs have been set apart for the use of the public as parks and pleasure resorts. Such are "Buckeye Lake," "Indian Lake" and "Portage Lakes." These have been placed under the supervision of a joint board for the control and management of lakes, reservoirs, and State lands, consisting of the board of public works, the chief engineer of public works, and the Ohio canal commission.[2] The law designates the State auditor as land agent for the State.

Lands of State institutions.

The lands belonging to the various State institutions are generally under the charge of the boards of trustees of those institutions, but in several instances special officers are designated in the laws as custodians, as, for example, in the case of the State House grounds, which are in charge of the adjutant general.

Private lands.

The State exercises a general oversight over all private lands within its borders by virtue of its police power; it taxes these lands; and when the public welfare demands, it enforces its right of "eminent domain" to compel landowners to sell their lands at the appraised value. On failure of heirs private lands revert to the State.

The geological survey.

It was in 1837 that the State first recognized the importance of bringing to light the geological structure

[1] Bates, *Statutes*, §§ (3107-59), (3107-95), (3107-96), (3107-121), (3107-122).

[2] *Ohio Laws*, v. 95, 277-280, 283.

and resources of the Commonwealth. The State geological survey was first organized in that year, but was not maintained continuously. In 1881 Professor Edward Orton, of the Ohio State University, was made State geologist and director of the survey, and so remained until his death in 1899. During this period many researches were made, and much was done to acquaint the people with the great mineral wealth of the State.

71. Protection of Birds, Fish, Game and Forests

Fish and game commission.

The economic interests of the State are also concerned in the protection of birds, fish, and game. This is done by a fish and game commission of five members appointed by the governor and Senate. This body is entrusted with all matters pertaining to the protection and propagation of fish and game, besides insectivorous, game, and song birds within the State. It appoints a chief warden, together with special and deputy State wardens, to enforce the game laws and prosecute offenders. The hunting and catching of certain kinds of birds, game, and fish are confined by law to certain seasons, and heavy fines are imposed for the illegal use of traps and nets.

Bureau of forestry.

The preservation of forests is likewise a matter of public concern. The destruction of woods and groves removes man's natural protection against severe storms, helps to destroy the supply of game by leaving it without proper shelter and food, and so affects the drainage of the earth as to increase greatly the danger of freshets and floods. These and other considerations led to provision being made for a forestry bureau of three members. This board was to collect the

facts about the condition of our forests, learn the causes of their waste and decay, and suggest legislation in the interests of a forestry system. Unfortunately the boards first appointed were inactive and the governor has ceased to appoint members of the bureau.

72. Agriculture

The State board of agriculture.

Several institutions exist for the promotion of the interests of agriculture, such as the State board of agriculture, the Agricultural Experiment Station, and the Ohio State University. The State board of agriculture is an incorporated body, consisting of ten members and including also the presidents or other authorized delegates of the county agricultural societies. Two members of the State board are elected at each annual meeting. The board hears reports from the county societies; discusses the condition and needs of agriculture throughout the State; is required to hold an "annual exhibition of the agricultural and general productive industries of the State," commonly known as the State fair; must report its proceedings to the legislature; and recommend legislation for the promotion of agriculture.

Nursery and orchard inspection.

The inspection of nurseries and orchards is also placed under the control of the State board of agriculture. It appoints an inspector and assistants to examine all nurseries once a year, also "all orchards, gardens and other premises either public or private" believed to be infested with pests. Thus the effort is made to exterminate all dangerous plant pests in the State. Plants shipped in from other States must bear a certificate of inspection showing them free of pests and disease.

Inspection of live stock.

The board likewise acts as a board of live stock commissioners to perform a similar duty in preventing the

spread of diseases among domestic animals. It is required to quarantine animals affected with contagious or infectious diseases, or to kill them if necessary after providing for the payment of the owners.

Farmers' institutes.

The State board of agriculture supervises the work of the farmers' institutes throughout the State. Farmers' institutes are organizations of twenty or more residents of a county formed for the purpose of teaching better methods of farming, stock-raising, fruit culture, etc. Institutes were first regularly held in Ohio, in the winter of 1880-81 under the auspices of the State board. Then the legislature began to appropriate about $5000 a year for the extension of their work; and in 1890 by legislative enactment a tax was levied for the purpose which brings in about $14,000 annually.[1] Each institute society is organized under regulations furnished by the State board of agriculture. Not more than four societies may be formed in any one county, and they hold annual meetings under the auspices of the board. The expenses of these meetings are paid by the county. The State board of agriculture furnishes lecturers for the meetings, and publishes such lectures and papers as are of general interest to the agriculturists of the State. The farmers' societies frequently hold independent meetings, besides the annual meetings. In such cases the societies pay their own expenses and employ their own lecturers. Two hundred and sixty institutes were authorized by the board for the season of 1900-1901.[2]

Ohio Agricultural Experiment Station.

Education in practical and scientific agriculture has been greatly improved and systematized in the United States through the agency of agricultural experiment

[1] Burkett, *History of Ohio Agriculture*, 208, 209.
[2] *Bulletin of Farmers' Institutes*, 1900-1901.

stations. These institutions are the direct outgrowth of the Congressional act of July 2, 1862, establishing land-grant colleges. At first special investigations in agriculture were made on the Ohio State University farm; and even after the Experiment Station was separately organized in 1882, it remained at the University for ten years. But in 1892 it was removed to Wooster, Ohio. In 1888 the Experiment Station began receiving an annual appropriation of $15,000 from Congress, and this has made possible the rapid progress of its work. The necessary buildings and grounds have been supplied by the State.[1] With this equipment and a corps of scientists, the station is able to carry on series of valuable experiments in stock feeding, crop production, fertilizers, fruit and plant culture, and the study of plant diseases and pests. The station issues numerous bulletins and an annual report, which are distributed gratuitously.

College of Agriculture of Ohio State University.

Another institution devoted to the improvement of agriculture is the College of Agriculture of the Ohio State University. Connected with this institution is a farm of about 200 acres with the necessary buildings and laboratories, an agricultural library, and a museum. Experiments are conducted on the University farm by both the college and the experiment station. About 250 students receive instruction in the various branches of agriculture, horticulture, and dairying.

The State Horticultural Society and the Ohio Dairymen's Association.

In addition there are two societies receiving State support that are engaged in similar kinds of work. These are the Ohio State Horticultural Society and the Ohio

[1] See the careful account published in the *Report of the Ohio State University for 1892*, 15, 16; Burkett, *History of Ohio Agriculture*, 205-208.

Dairymen's Association. The former collects and disseminates information relative to fruits and other horticultural products and publishes an annual report. It receives an annual appropriation of $1000 from the State. The latter seeks to encourage dairying and to improve dairy products by holding an annual meeting for the discussion of appropriate subjects and publishing an annual report. This organization also receives $1000 a year from the State.[1]

73. Labor and Factory Laws

Length of working day

In the interest of the public and to protect men who are often unable to protect themselves, it is wise that the State should exercise a certain degree of control over the laborer and the conditions which surround him. To this end many laws have been enacted dealing with the hours of labor, the employment of women and children, condition in factories, and similar subjects. On all public works in the State and with all State employees, eight hours are considered a legal day. No one can be required or permitted to work longer unless extraordinary conditions make it necessary. In mechanical, manufacturing, and mining business, unless it is otherwise stipulated in the contract, eight hours' labor is considered a day's work.

Child employmen

Special provisions are made regarding the employment of children. No child under fourteen years of age is permitted to be employed in any factory, workshop, or store; nor may it be employed in any other manner, whether for pay or not, while schools are in session. No employer may hire a child between fourteen and sixteen without exacting a certificate to show

[1] See the last *Annual Reports* of the two associations.

that its holder has completed the common branches. No minor under eighteen years of age may be employed longer than ten hours a day nor more than fifty-five hours a week in factory, workshop, or store.

Inspection of workshops, factories, and mines.

In the interest of the health and comfort of employees the State requires that the sanitary conditions and the ventilation of factories, mines, and stores shall be up to a certain standard. Dangerous machinery must be fenced and necessary precautions must be taken to protect working men from accidents. To carry out these provisions and enforce the laws regulating the hours of employment, the offices of inspector of mines and inspector of workshops and factories have been created. A sufficient number of assistants to these officers is provided so that the factories and mines may be properly inspected and the laws enforced.

Sweat shop labor.

A special provision concerns sweat shop labor. In some cities unprincipled manufacturers are enabled to produce certain kinds of goods cheaply by crowding employees together in tenements or dwellings where the sanitary and other conditions are wholly unfit for the employment of labor. Such establishments are commonly called sweat shops. The law prohibits these by providing in effect that no home shall be used for the manufacture of wearing apparel or of tobacco goods, except by the members of the family, unless the dwelling has been transformed into a suitable workshop. It further requires employers who give out work to keep a record of the addresses of the persons to whom the work is given, so that the inspector of workshops may see whether the law is being complied with. Not only the manufacturers of these sweat shop goods, but also

those who convey or sell them, are liable to severe penalties.[1]

Commissioner of labor statistics.

To advance still further the interests of labor the office of commissioner of statistics of labor was created. The commissioner is appointed by the governor, and his office in the State House is called the bureau of statistics of labor. It is the business of the commissioner to collect and systematize the statistics relating to the various branches of productive labor in the State, especially those relating to the "industrial, social, educational and sanitary conditions of the laboring classes." In this way information is disseminated as to the condition of the laborer, and suitable remedies may be devised for any abuses discovered.

Free public Employment officers.

Employment offices are provided for, one in each of five districts of the State, for the purpose of assisting the unemployed to find work. The superintendent in charge of each office is appointed by the governor and the commissioner of labor statistics. Each superintendent aids in gatherings statistics and must make weekly reports to the commissioner of the number of persons applying for employment and of the kind of employment sought; also of the number of persons desiring to employ labor and of the kinds of laborers wanted. No fees are charged.

State board of arbitration.

The State has rendered an important economic service by providing a means for the peaceful adjustment of labor troubles and the avoidance of strikes and lockouts. This has been done through the establishment of a State board of arbitration, which consists of three members appointed by the governor and Senate. One

[1] Bates, *Statutes*, §§ (4364-80)-(4364-85).

member represents the employers, another (who is not an employer of labor) represents the employees, while the third is chosen by the other two. Whenever a controversy arises between an employer and his employees that is not subject to settlement by ordinary judicial methods, it is the duty of this board to examine witnesses and thoroughly investigate the difficulty for the purpose of suggesting an amicable settlement. Arbitration is a voluntary matter. Neither party is compelled to abide by the decision of the board, unless a request for arbitration was made by the accredited representative of both sides. In the latter case the decision is binding and may be enforced by the courts. But even in cases where the board fails to effect a settlement, it still renders a valuable service, for it exercises a certain moral force. Its decision is made public, and is published in its annual report, a copy of which is filed with the clerk of the city or county where the difficulty arose. When both parties to a controversy prefer it, the dispute may be submitted to a local board of arbitration.

74. Domestic Commerce

Standards of weights and measures.

In the buying and selling of goods the use of standards of value and of weights and measures is necessary. Without such standards buyers and sellers would be at a loss to estimate the quantity or weight of commodities and also their values. The United States Government has established these standards, thereby affording a uniformity that greatly facilitates trade.[1] The State has nothing to do with the enforcement of the money standard. That power is exercised by the Federal Government. However, the enforcement of the law respecting

[1] Bates, *Statutes*, §§ 4428-4446.

weights and measures is a State function, and for its exercise various officers are required. There is, for example, a State sealer of weights and measures, who is the professor of physics in the Ohio State University. He is the custodian of the standards adopted by the State, and is required to furnish copies of these to the county auditors, who serve as county sealers, and to the sealers of such cities and villages as apply for them. The county sealers must test any weights and measures brought to them by comparison with the standards in their keeping. The councils of municipalities are given the power to provide for the detection and destruction of false weights and measures, and a fine of $50 and imprisonment for thirty days are the penalties imposed by law for fraudulent use of imperfect standards.[1]

Inspection of goods.

In most cases there are no standards by which to estimate the quality of goods. Here consumers must rely on their own judgment. In certain cases where the health of the people demands that goods shall not fall below a fixed grade or quality, the State provides for inspection. Inspectors test the commodities in question, and if they find that they are up to the required standard and that certain conditions of manufacture have been complied with, the inspectors are authorized to place brands upon the goods.

Labels and trade-marks.

This regulation is primarily in the interest of the consumer, but it also protects the honest manufacturer from unfair competition. The State also grants and protects proprietary rights in the use of private brands, wrappers, labels, and trade-marks, which are affixed to goods and are a guarantee of quality. This provision is in-

[1] Bates, *Statutes*, §§ 142-145, 1054-1057, 2576, 1692d, 7067.

tended primarily to favor the producer, but it benefits the consumer as well because the trade-mark becomes a guarantee of the quality of the goods.

Dairy and food commissioner.

Food products, drinks, and drugs would often be harmfully adulterated if the State did not have an officer whose special business it is to enforce the laws against such evil practices. This officer is the dairy and food commissioner. He is chosen at the general State election for a term of two years. He and the assistants whom he appoints are authorized to enter stores, factories, or laboratories for purposes of inspection, and to prosecute all who make or sell the goods indicated in adulterated form contrary to law, or who use false and unlawful labels. The inspector has full power to appoint chemists, counsel, and such other assistants as may be necessary in performing the duties of his office.

Trust regulation.

Of late years numerous business combinations have arisen, each one seeking or securing exclusive control of the manufacture or sale of certain articles that are in general use. Such combinations are known as "trusts." The control of the market or supply of a product, when once obtained, gives the controlling firm the power to fix the price of its goods at exorbitant figures. Such a condition lays a hardship on consumers, and at the same time suppresses other dealers by preventing freedom of competition. The so-called trust law is directed against these evils. It prohibits all monopoly and restriction of trade. A trust is defined as a combination which accomplishes one or all of the following purposes: restricts trade or commerce, limits or reduces production, prevents or restricts competition, and increases prices or

fixes a standard of prices. Violations of the law are punishable by fine and the withdrawal of the company's charter, while competitors who have been financially injured can collect damages from the trust. Other provisions exist to protect people from unfair business methods by licensing peddlers, pawn-brokers, etc.

75. Highways and Bridges

General statement.

The construction of roads and bridges is an essential part of our industrial system, and is carried on under authority derived from the State. In the early history of the Commonwealth, highways were often built and managed by turnpike companies, but most of these "toll-roads" have been bought by the State. Their maintenance depended on charges made at toll-gates and was not satisfactory. Now as a rule the building and repair of roads is in the hands of counties, townships, and municipalities.

State highway commissioner.

But the State, by a law of 1904, proposes to coöperate in the maintenance of roads. This law creates a new department in charge of a State highway commissioner. This officer investigates road-making, publishes bulletins thereon, passes on applications from county commissioners for road improvements, and, when he approves, furnishes plans, and lets the contracts. The cost is borne one-fourth by the State and three-fourths by the county.

Classification of roads.

Such roads are designated "State highways." They are to be distinguished from the "State roads" of the usual classification. The latter are simply public ways that extend beyond a single county. A county road lies wholly within the county, and some county roads are known as assessment pikes. Both State and county

roads are controlled and kept in repair by the commissioners of the county or counties concerned, without State aid. A township road lies wholly within the township. Finally, come the toll-roads, already mentioned.

State and county roads.

New State and county roads are established by the county commissioners on petition signed by the requisite number of freeholders of the counties concerned. Thus the construction of a State road requires a petition to the commissioners from twenty freeholders of each county through which the road passes. The counties interested must coöperate in the construction of the road. Each county, through its county commissioners, must compensate all property owners for damages to property occasioned by the construction of the road. A new county road is secured by petition to the commissioners. The petition must be signed by the owners of most of the land through which the road is to pass, and these persons must also make provision for the initial expenditure of surveying, etc. It is left to the county commissioners to determine how the costs of construction and maintenance are to be met. They may apportion the entire costs among the property owners, or a portion only among these persons and leave the rest to be met from county funds. The improvement or abandonment of county roads is brought about in the same way as the building of new roads. Assessment pikes are also established by the commissioners in response to petition. These are of two varieties, one-mile and two-mile assessment pikes, so named because the extra taxes required for their construction are levied on the property within either one mile or two miles—as the case may be—on *each* side of the road. The conversion of the toll-roads

of a county into free roads is effected by purchase by the commissioners, who issue county bonds to the extent needed if under $225,000. A petition of 150 voters of the county requires this action.

Township roads.

The methods for establishing, abandoning, or improving township roads differ but little from those used in the case of county roads. All petitions must, of course, be made to the township trustees; and such portion of the damages as the trustees think just are paid out of the township treasury, the remainder being assessed on the petitioners. The trustees make all levies for township roads, and may sell bonds for road purposes. They organize the township into one or more road districts, and an elective supervisor takes charge of the roads of each such district, being furnished with the implements, etc., necessary for road-making and repair by the trustees. From two to four adjacent townships may be combined into a road district for the purpose of constructing pikes or improving their roads generally.

Streets.

The construction, improvement, and repair of streets of cities and villages are provided for by action of the council of the municipality, which has authority over all public ways within the corporation. The langauge of the law is that the "council shall have the care, supervision and control of public highways, avenues, alleys, sidewalks, public grounds, bridges, aqueducts and viaducts within the corporation and shall cause the same to be kept open and in repair and free from nuisance." The council has, of course, the power to tax for these purposes, and may assess upon lots especially benefited any part of the cost of the improvement of a public road by paving, repairing, draining, lighting, cleaning, etc. In like manner the council has the power to grant com-

pensation to any property owner sustaining damages by reason of an improvement. The owners of more than two-thirds of the foot frontage on any street, or part of a street, may secure the care of their thoroughfare by petition to the council. In such a case the directors of public service are placed in charge, the council being free to appoint two citizens—owners of abutting property on each street—to serve with the directors. In villages the street commissioner has charge of such improvements.

Bridges.

The construction and repair of bridges outside of the corporate limits of cities and villages are under the control of the county commissioners, except in the case of bridges owned by private companies. Bridge companies, however, are required to meet the stipulations of State law as to the maintenance of their structures and the regulation of their tolls. Bridges, viaducts, and aqueducts within a corporation are usually built and kept in repair by the municipality. For such purposes the municipality has the right to appropriate and hold real estate after it has been duly appraised and the former owner has been compensated.

76. Canals and River Navigation.

Importance of canals.

The building of canals, as well as highways, contributed much to the early development of the State. River traffic was necessarily limited to the navigable streams, and these did not extend into the interior of the State. The construction of a system of canals served to bring the interior into direct communication with Lake Erie on the north and the Ohio River on the south. Since the spread of railroads the canals have lost much of their importance as means of transportation, but the

State still owns and operates its two main canals, the Ohio Canal from Cleveland to Portsmouth, and the Miami and Erie Canal from Cincinnati to Toledo.

The board of public works.

The canals are under the general supervision of the State board of public works. This body consists of three members elected for three years, and has an office in Columbus, where all records, books, and documents are kept. The board regulates the canal tolls, appoints the collectors of tolls and water rents and names the superintendents of repairs, lock tenders, and such other employees as are needed for the proper management of the canals. The board must report annually to the governor.

Chief engineer of public works.

The maintenance and repair of all the public works of the State is directly in charge of the chief engineer of public works, who operates under rules established by the board. He is appointed by the governor and Senate and holds office for two years.

Traffic on the canals.

Traffic on the canals is carried on under explicit regulations. Every boat must obtain a certificate of registry from the collectors, giving the name of the boat and the names and residences of her owners. Every master of a boat must exhibit to the collectors a bill of lading showing the quantity and weight of goods constituting the cargo, the points from which the goods were shipped and their destinations; also a list of the passengers, the places where they embarked, and the points to which they are going. The speed of boats is limited to four miles an hour, and the conditions under which one boat may pass another are stated.

River navigation.

The State not only exercises control over the traffic on the canals, but also over river navigation. The keepers of wharf-boats are required to keep their boats open

during the night for the benefit of the public, and to stop passing boats whenever any one desires to embark or to ship freight. Laws stipulate how coal and flat-boats are to be constructed, and fix the conditions under which river boats may be occupied as residences.

77. Control of Corporations

Forms of business organization.

The coöperation of land, labor, and capital in production is secured by three forms of business organization. The first is that of individual ownership or management, and in event of failure, the manager becomes liable for the payment of his debts almost to the extent of his fortune. The second form of organization is the partnership embracing two or more members in a firm. The contractual relations of the members are stipulated, but in the partnership as in the individual firm, the State exercises but little supervision, except in case of bankruptcy. The third form of organization is the modern corporation. The stock of the corporation is divided into shares, usually valued at $100 each, and the purchasers of shares are members of the corporation. This form of organization has distinct advantages over the other two in that it makes possible the accumulation of great amounts of capital under the control of experienced organizers, and avoids the necessity of dissolution on the death or withdrawal of a member of the concern. Without the corporate form it is difficult to see how such vast industrial enterprises as railroad and steamship companies and some of our larger manufacturing plants could have been possible. As corporate interests occupy to-day a very large part of the field of industrial activity, the legislation governing corpora-

tions is perhaps the most important dealing with economic interests.

Early doub about corporation

Industrial corporations have developed for the most part within the last fifty years. Prior to the nineteenth century they had not established their right to exist. Adam Smith, writing in 1776, said that corporations could never be managed as well as partnerships because the managers would not take as deep an interest in the business as would those who invested their own capital. The experience of the nineteenth century, however, has disproved this view.

Organizati and powers of corporation

Corporations are the creation of the government. In Ohio it was formerly the practice to enact special legislation for the establishment of each new corporation, but the constitution now requires that they shall be organized under general laws. The agent of the State in the creation of corporations is the secretary of state, who issues "articles of incorporation," constituting a sort of charter, to persons organizing for business purposes under the corporation laws of the State. Articles of incorporation can not be issued to less than five persons, must contain the name of the company, "the place where it is to be located" or "where its principal business is to be transacted," the purpose for which it is formed, the amount of capital stock, and the number of shares. The corporation has the power to make contracts, to sue and be sued, and has perpetual life. The general corporation law stipulates the methods of election of trustees and directors, and the powers and duties of these officers; also the conditions under which the books must be opened for the subscription of stock, and how the stock may be increased or decreased and dividends declared. The corporation is given power to

make all necessary by-laws, rules and regulations, not inconsistent with the corporation or other laws of the State. One great advantage of the corporate form of organization from the standpoint of the stockholders is that in most States they are not liable for the debts of the corporation beyond the amount invested in its stock. Hitherto in Ohio stockholders in Ohio corporations have been liable for an equal amount in addition. But the constitutional amendment adopted at the election in November, 1903, does away with this "double liability" for the future by providing that "in no case shall any stockholder be individually liable otherwise than for the unpaid stock owned by him or her."[1]

Kinds of corporations.

The State incorporates a large variety of industrial organizations. These are technically called "corporations for profit," because their stockholders expect to receive dividends from them. Dividends are the shares of the surplus profits of a company. These corporations are not all subject to the same corporation laws. Besides the general law described above, there are special laws applicable to the following classes of enterprises: railroad companies; ship canal companies; turnpike, plank road and avenue companies; bridge companies; gas and water companies; life insurance companies; insurance companies other than life; savings and loan associations, and banks. There is another group of corporations, known as "corporations not for profit," from which the members do not expect to derive pecuniary gain. These are organized in the same general way as the industrial corporations, but some of them are also regulated by special laws. Such are cemetery associations, societies to prevent cruelty to animals, colleges

[1] *Senate Joint Resolution*, No. 17, passed April 29, 1902.

and institutions of learning, religious, fraternal, and other societies.

Methods of regulation.

The differences in the character of these various corporations require that different methods of regulation be applied to them on the part of the State. They are incorporated by the State because it is believed that they promote the public welfare. But corporations often acquire vast amounts of capital, and thus gain great power. When this power is improperly used it becomes antagonistic to the public interest. Experience has shown that "corporations not for profit" have little or no tendency to develop in a dangerous direction, and need but little regulation. This is true also of many of the industrial corporations. In such cases the control of the State is usually limited to the regulations imposed by the laws incorporating them; and the execution of these laws devolves on the ordinary legal authorities. In other cases, however, the interests of the public are so directly concerned that the State provides officers for the express purpose of supervising the corporations and enforcing the laws.

Commissioner of railroads and telegraphs.

The public is probably more directly and generally concerned in railroads and telegraphs than in any other private enterprises; and the office of commissioner of railroads and telegraphs is designed to guard the interests of the community. The commissioner is appointed by the governor and Senate, and holds office for two years. He is required to see that railroad tracks and bridges in the State are in proper condition for traffic, that railroad companies place gates or flagmen on highways where there are dangerous crossings, and in fact to see that all the laws respecting railroads are properly enforced. He is assisted by an inspector, an engineer,

and a clerical force adequate to his needs. The expenditures of the office are paid out of revenues derived from the railroad companies. These corporations must make an annual report to the commissioner, stating the condition of their tracks, and rendering a full account of their earnings and expenditures. A similar report is required of telegraph companies.

Superintendent of insurance.

Special provision is also made for the control of insurance companies. This function is assigned to the superintendent of insurance. He is appointed for three years by the governor, with the consent of the Senate, and is not allowed to be an official of an insurance company at the same time. He receives annual reports from the insurance companies, and whenever he has reason to doubt the correctness of any statement of a company doing business in the State, or that its affairs are in an unsound condition, he must make an investigation to get at the facts, which he is authorized to publish. He must also make an annual examination of the assets of every life insurance company organized under the laws of this State to ascertain whether they are invested as prescribed by law.[1] The right of companies chartered outside of the State, but doing business in Ohio, may be revoked by the commissioner when conditions warrant.

Bureau of building and loan associations.

The supervision of the building and loan associations of the State is placed in the hands of a bureau of building and loan associations. The chief officer of the bureau is the superintendent of insurance, who is, ex-officio, inspector of building and loan associations. He appoints a deputy inspector for an indefinite term.

Mine inspectors.

The office of mine inspector is charged with the supervision of the mines of the State. There is a chief

[1] *Ohio Laws*, v. 95, 550.

inspector and seven district inspectors. The chief inspector is appointed by the governor for four years, and in turn appoints the district inspectors, who serve for three years. These officers require reports from the superintendents of all mines, have full power to examine the mines thoroughly, and to enforce the laws relating thereto.

Summary.

Our discussion of the State's relation to corporations shows that corporations are a recognized and important part of our industrial system. The State creates them by issuing "articles of incorporation," grants them certain general and special powers, protects them in their rights, and at the same time employs particular methods of control for the purpose of preventing the more powerful corporations, or those having close relations with the community, from doing anything antagonistic to the public welfare.

CHAPTER XII

THE MANAGEMENT OF THE PUBLIC FINANCES

78. References

Johnson, *Cyclopaedia,* "Finance," "Taxation;" Lalor, *Cyclopaedia of Political Science,* "Taxation;" Plehn, *Introduction to Public Finance;* Barnstable, *Public Finance;* Daniels, *Public Finance;* Adams, *Science of Finance;* Cooley, *On Taxation;* Seligman, *Essays on Taxation;* Cossa, *Taxation, its Principles and Methods,* Eng. trans.; Ford, *American Citizen's Manual,* Part II. p. 149, "State Taxation," p. 161, "Debts;" Bryce, *American Commonwealth,* I. ch. 43, "State Finances;" Hart, *Actual Government,* Part VII., "Financial Functions," pp. 381-427; Ely, *Taxation in American States and Cities;* Wells, *Report on Taxation* (50th Congress, 1st session, Ex.Doc.,No. 400); Wells, *Theory and Practice of Taxation;* Hollander, editor, "Studies in State Taxation" (*Johns Hopkins University Studies,* XVIII, 1-4); Commons, "Some Taxation Problems and Reforms," in *American Monthly Review of Reviews,* Feb., 1903; Orth, "The Centralization of Administration in Ohio" (*Columbia University Studies in History, Economics and Public Law,* XVI, 3), ch. 2, "Taxation and Local Finance."

Constitution of Ohio (1851), Art. XII., "Finance and Taxation," Art. VIII., "Public Debt and Public Work," Art. XV. § 3, "Publication of Receipts and Expenditures;" Bates, *Annotated Ohio Statutes,* I. pp. 1465-1615*a*, "Finance and Taxation;" Ellis, *New Annotated Ohio Municipal Code,* "Taxation," "Borrowing," "Sinking Fund;" *Annual Reports* of the State auditor and the State treasurer.

79. The Expenses of the Government

Necessity and danger of the money power.

The various functions of the government that have been examined in the preceding chapters involve large expenditures for maintaining the great body of officials, State and local, who are engaged in the performance of these and other functions. The local governments not only help to pay for these various kinds of public work and the officers they make necessary, but also have many separate expenses of their own. In other words, a great deal of money is needed for both State and local purposes, and the government must therefore possess the added power of exacting contributions from the public. This is known as the taxing power. Justly and economically exercised, it contributes to the public good; dishonestly exercised, it corrupts the political and moral life of the community. It is therefore both desirable and essential that every citizen should know how our revenues are obtained and how they are expended.

Expenses of government

The amount of money needed every year for State purposes is much smaller than that needed for local purposes. For example, the amount collected for State purposes in the fiscal year 1902 was about $5,686,000; that for local purposes, about $42,104,000, or more than seven times the former amount.[1] The annual expenses of the State are distributed as follows: for the maintenance of the legislative and executive departments, $975,000; for the administration of justice, $480,000; for the protection of the community, $363,000; for the support of public education, $2,335,000; for the maintenance of charitable and correctional institutions, $3,155,000. Besides these expenses the State pays interest

[1] *State Auditor's Report, 1902*, p. 363.

on certain irreducible debts to the extent of about $277,000 annually, the interest and principal of other debts in the sum of about $271,500 annually, and some miscellaneous items amounting to $263,000, more or less, each year. The distribution of the expenses of the local governments can not be given because it varies greatly with the different governments and from one year to another. It may be said, however, that the chief items of expense in the case of the counties are salaries, roads and bridges, the care of the poor, and occasionally new buildings. In the case of the townships the chief items are salaries, roads, schools, poor relief, and special objects. In the case of municipalities the items are much more numerous and include all the customary conveniences of city life besides the items regularly found in the expense account of the rural areas.

80. Sources of Public Revenue

Sources of State revenue.

The revenue for State purposes is derived from various sources. By far the most important source is the general or State tax levied on the real and personal property of the State. In 1902 about $2,760,000 were realized from this source. The State also levies a number of special taxes, such as the excise taxes on corporations enjoying public franchises, the tax on collateral inheritances, and the taxes on the sale of liquor and cigarettes. From these sources about $2,818,000 were obtained in 1902. The State gets a part of its income from other sources than taxation. Thus, it has the use of certain funds that have arisen through the sale of lands granted by the United States for the support of education. But the laws require that the State shall pay

a fixed rate of interest (six per cent.) on these funds, to be devoted to educational purposes. It also receives small amounts from the rental or sale of public lands. Still another source is the earnings of State departments and institutions, which amounted in 1902 to $617,000. There are other miscellaneous sources of revenue, such as show and peddlers' licenses, auction duties, teachers' examinations, etc., which bring in small amounts.[1]

Sources of revenues of the local governments.

The revenues of the local governments—the counties, townships, and municipalities—are obtained for the most part by the taxation of the real and personal property within their limits, while some money is also derived from fines, fees, and licenses. It should be further remembered that local communities share in certain taxes levied by the State, and thus get back for local uses a part of the revenue they have contributed to the Commonwealth. Thus the State common school fund, which is created by State levy, is distributed among the counties at the rate of $1.45 for each person enumerated in the school census; and the taxes on the sale of liquor and cigarettes go in part to the township and municipalities for police and other purposes.

81. The Assessment of Property

The tax on real and personal property.

We have already seen that the State raises most of its revenue by a general tax on real and personal property, and that the local governments obtain most of their revenue in the same manner. The amount of property tax a person has to pay depends on the amount levied and the ratio of the value of his property to all the property taxed. We may therefore define the property tax as a

[1] The receipts and disbursements of the State are shown in Appendix E, § 103.

proportional contribution paid by property-owners for public purposes. The first step to be taken in the process of levying this tax is the valuation of the taxable property of the State. It then becomes possible to apportion the tax equitably, and determine the share that each property-owner must pay.

Valuation of personal property.

Personal property is "returned," or assessed, every year by the annual assessors. These officers are elected annually by the townships and wards in which they serve. They furnish every citizen over twenty-one years of age in their several districts with a blank, on which he must list all of his personal property and its value. These reports, which are made under oath, are collected by the assessors, and turned in to the county auditor, who supervises the listing of all property.[1] "All corporations, except express, telegraph, telephone, and railroad companies, are required to make return of all their personal property to the auditor of the county in which their business is located." The assessors also list such realty and new structures as have not been assessed before, besides noting any instances of decline in value through the loss or destruction of buildings or other property.

Failure to make returns.

"If any person refuses or neglects to make the required returns, the assessor makes the returns from such information as he may be able to obtain, or from his own personal knowledge." When the reports are in the county auditor's hands they are subject to his revision. Anyone whom he suspects of fraud or delinquency, he is empowered to summon; and in case he becomes convinced of an effort to omit property for returns he may add fifty per cent. of the total sum of the

[1] The assessors distribute and collect these blanks between the second Monday of April and the third Monday of May.

property found as a penalty. Since 1888 the county auditor has been aided in the work of discovering delinquents by the "tax inquisitor." A law passed in the year named "empowers the county commissioners, county auditor, and county treasurer, or a majority of them, 'when they have reason to believe that there has not been a full return of property within the county for taxation,'" to employ a person to make investigation and furnish the necessary evidence to the county auditor. The officer thus provided for is called the tax inquisitor, and receives not more than twenty per cent. of the money he actually secures for the county treasury, except in four counties, where he is allowed twenty-five. The auditor receives a commission of five per cent. of all sums thus collected. These provisions are intended to reach the "tax-dodger," who, however,—it appears—cannot be compelled to be honest in listing his personal or intangible property.

Valuation of real property.

The general assessment of real property, that is, lands and buildings, is made only once in ten years, and the work is then performed by the "decennial assessors of real property." These officers are elected every tenth year in each ward and township. They are furnished by the county auditor with the necessary lists, maps, and books, and proceed to determine and set down the true values of all pieces of real property in their districts.[1] They return this information to the county auditor, who is empowered to correct omissions and errors, or change the valuation when structures are destroyed or newly built.

Valuation of the property of franchised corporation

The valuation of the property of corporations holding public franchises is left to certain boards of apprais-

[1] This work is done during the interval from March to July.

ers. In the case of railroads, the auditors of the several counties through which the line passes constitute the board of appraisers for the railroad property concerned. As such they have full power of inquiry and are authorized to apportion the valuation among the several counties. The auditor of each county apportions his county's share among the communities of the county, placing the amounts on the tax-list. An appeal from the decision of the above board lies to the State board of appraisers and assessors. The State board comprises the State auditor, treasurer, attorney general, and secretary of state. It not only serves as a board of appeal for railroad property, but appraises the property of the express, telegraph, and telephone companies, freight line and sleeping car companies, the electric light, gas, street railroad, and other similar corporations doing business within the State.

Exemptions.

Not all of the property subject to the control of the State is taxed. Numerous exemptions are granted by law. In the exempted list are found in general all public property whether belonging to the United States, the State, or the local governments; also churches, and buildings belonging to institutions of public charity, armories, the property of Grand Army posts, and of certain secret benevolent organizations. Finally, each individual residing in the State has an exemption to the amount of $100 from the aggregate listed value of his personal property "except dogs."

Revision of assessments on city property.

Errors are sure to be found in the work of the assessors, and complaints are often made against their valuations by property-owners. Hence boards of equalization are necessary. There are three classes of these boards, *city*, county, and State, each made up of two kinds—

annual and decennial boards. The annual city board consists of the auditor of the county and six citizens, appointed usually either by the council or the mayor. It meets in the office of the county auditor on the fourth Monday of May to begin its work of revision. In performing this work the board hears the complaints of those who think themselves wrongly assessed, and it may summon persons for examination under oath in regard to their own or other people's property. The decennial board adjusts the values of real property only, acting of course after the decennial appraisement. In 1901, the legislature provided for a board of review for equalizing real and personal property, which may be substituted for the annual and decennial city boards just described. This may be done for any city on application of the county auditor. The new board consists of three freeholders of the city, who are appointed for five years by the State board of appraisers and assessors for railroads and banks. The county auditor is also a member of the new board.

Revision of assessments on property in the county.

The annual county board of equalization consists of the county auditor and county commissioners, and the decennial board is made up of the same officers plus the county surveyor. The functions of these boards differ as in the case of the city boards, and their authority ranges throughout the county, but does not extend to cities. A check is placed on their power to scale down the aggregate valuation of the real property of the county below certain limits.

Revision of assessment on banks and railroads.

There are two annual State boards of equalization, one for banks and the other for steam railroads. The former consists of the governor, State auditor, and attorney general, and revises the assessments on banks

made by the county auditors. The latter has four members, the State auditor and treasurer, commissioner of railroads and attorney general, and revises the returns on railroads sent in by the boards of county auditors.

Equalization of taxes throughout the State.

The adjustment of the taxes on realty for the different parts of the State is left to a decennial State board of equalization. This body comprises as many members as there are members in the State senate, elected every tenth year by the senatorial districts. Lists of the real property of all the counties are sent to the State auditor by the county auditors, and so come before the decennial State board, which meets on the first Tuesday of December. When this body has finished its work the State auditor sends to each of the county auditors a statement of the per cent. to be added to or deducted from the valuation of the real property of the county, specifying also the rate of increase or reduction for each of the townships and municipalities. After these have been equalized by the county and city boards of equalization they are placed on the tax duplicate by the county auditors.

82. The Levy and Collection of Taxes

Levying the taxes.

The process of valuation or assessment of property, which we have just examined, is but one phase of the work of raising revenue by taxation. The second phase is the "levying" of the taxes. This requires the determination of the annual sums of money to be raised on property by the different local communities and the State. The estimate of the sum needed by each of the local districts and the State is made separately: by the board of education for the school district, by the trustees for the township, by the council for the municipal-

ity, by the commissioners for the county, and by the legislature for the State. Each of these bodies also determines the rate of taxation necessary to raise the sum it requires. The rate is expressed in mills or fractions of a mill on each dollar's worth of taxable property within the district concerned. The rate of taxation is simply the ratio of the value of all the taxable property of the district to the sum required by the district. The fixing of the rate is commonly spoken of as the "levying" of the tax. In levying the State tax, however, it is customary for the legislature to fix several rates, one for each of several funds that are in charge of the State treasury to be used in paying State expenses of different kinds. The rates fixed by the legislature are transmitted to the State auditor, who in turn sends them to the various auditors of the counties. Inasmuch as each county auditor knows the value of the taxable property in his district he is able to compute the amount of the State tax that his county will have to pay. The county auditor is also notified of the taxes needed for county, township, school, and municipal purposes.

Municipal taxes.

The levying of municipal taxes deserves a few words of special consideration. Under the new municipal code the estimate of the expenses of a municipality for the ensuing year must be made by the mayor and submitted by him in the form of an annual budget to the council. The council has the right to revise this budget, but not to increase it. It then proceeds to fix by ordinance the rates or levies on the taxable property in the corporation necessary to raise the money called for by the budget. But this does not complete the process. The levies must now be submitted to the board of tax commissioners of the municipality. This board consists of four citizens

appointed by the mayor for four years; but not more than two of its members may belong to the same political party. The board has the power to approve or reject any part of the levies, but must do so within ten days, and give its reasons for any adverse action. If it fails to report the levies back to the council within the time specified the levies become binding. If, on the other hand, it reports in season but adversely, the part or parts rejected can not go into effect unless the council re-enacts them by a vote of three-fourths of all members.[1]

The tax duplicate.

When the tax levies have been finally voted by the council they must be certified to the county auditor, who, as we have seen, also receives certified notice of the levies for State, county, township, and municipal purposes. It is now the business of the auditor (1) to compute the amounts severally due from the tax-payers of his district in proportion to the valuation and location of their property; (2) to make out a list of these tax-payers and their taxes; and (3) to furnish a duplicate list, called the "tax duplicate," to the county treasurer for use in collecting the taxes.

Collection of the taxes.

The collection of the taxes is the third phase of the taxing process. This part of the work belongs to the county treasurer, who collects all the taxes mentioned above, whether for local or State purposes, that are assessed on the real and personal property in his county. These taxes are due by December twentieth of each year, and tax-payers may pay their taxes in full on or before this date. But the law permits the payment of one-half the taxes by the date named (except road taxes, which must be paid in full), and the other half by the twen-

[1] *The Municipal Code*, §§ 38, 39, 46, 49.

tieth day of the following June,[1] and this custom prevails. All payments are made at the treasurer's office, except in the case of three counties.[2]

Delinquent taxes.

When tax-payers fail to pay by the dates specified by law the treasurer is required to collect from them, and a penalty of five per cent. may be added for this officer's use. If the December taxes on realty remain delinquent up to the time of the treasurer's settlement with the county auditor in the following February, a penalty of fifteen per cent. is added, and the same penalty is added to the June taxes if they are delinquent at the August settlement following. The failure to pay by the time the second December payment comes round makes necessary the sale of the real estate by the treasurer or one of his deputies. The money thus secured is used to pay off the back taxes, the penalties, and the entire taxes for the current years. Delinquents may redeem their lands within two years after sale. Taxes on personal property remaining unpaid at the time of the treasurer's August settlement are subject to a penalty of ten per cent. The treasurer is required to collect the taxes and penalty, and may add five per cent. for his services. Collection is enforced by civil suit.

Distribution of the taxes.

The collection of each installment of taxes is followed by the treasurer's rendering of his account to the county auditor. These semi-annual settlements are made by the fifteenth of February and the tenth of August. After each settlement the auditor sends a settlement sheet to the State auditor, who determines therefrom the

[1] Bates, *Statutes*, §§ 1042, 1087, 1091.

[2] In two of these, Columbiana and Adams, the law provides for township offices maintained temporarily by the treasurer; and in the third, Montgomery, the county commissioners designate a number of convenient places for the receipt of taxes.

amount due the State from the county, and obtains it by a warrant on the county treasurer. The local governments and school districts of the county also make their demands for the amounts due them, accompanied by the county auditor's warrant, and receive these amounts from the treasurer.

83. Special Taxes

Taxation of ordinary business establishments.

We have thus far confined our attention mainly to the ordinary taxes that all property-owners have to pay. Most of those who are engaged in business must pay the customary taxes on their business property, real and personal. Thus a manufacturer pays taxes on all his industrial property, including his raw materials, manufactured goods, machinery, and tools. But new methods of taxation have been in course of introduction in the business world in recent years. This has been brought about by the great development of corporations, and the fact that an immense amount of property has become corporate property. This brings us to the consideration of certain special taxes that are levied on corporations.

The franchise tax.

Most corporations for profit organized under the laws of Ohio (hence called "domestic") have to pay an annual fee of one-tenth of one per cent. on their capital stock. The tax can not be less than ten dollars in any case. A similar tax is collected from every "foreign" corporation for profit (*i. e.*, organized outside of Ohio, but doing business in the State), the tax in this case being levied on the proportion of its capital used in the State. This tax is called the *franchise tax*, because it is levied on corporations enjoying special privileges, or franchises, by grant of the State. Hence the State requires

an extra tax from such corporations. The tax is collected by the secretary of state, "because all articles of incorporation are issued by him, and in his office is kept a list of all corporations in the State. He reports monthly to the State auditor. The corporations have a right to be heard before the secretary of state, and may appeal to the auditor, attorney general, and treasurer, who act as a sort of equalizing board." This franchise tax is not required, however, from public service corporations, such as steam and interurban railroads; electric light and gas companies; pipe lines and water-works; express, telegraph, and telephone companies; nor is it levied on insurance, building and loan, and some other corporations.

The excise tax

All corporations have to pay the property tax, which in the case of public service companies is apportioned among the various counties in or through which they operate. But the latter have also to pay an *excise tax*. To that end they are required to make annual returns in regard to their business to the State auditor. These returns are made under oath, and are submitted to the State board of appraisers and assessors, which has full power to conduct examinations and to impose heavy penalties on delinquents. This board determines the gross receipts of each company from business done within the State for the year, and on these receipts the auditor imposes and collects a tax of one per cent.[1] If the tax is not paid by the end of November of each year the State auditor adds a penalty of fifty per cent. and brings suit for the entire amount. In most instances

[1] *Ohio Laws*, v. 97, p. 329.

he is allowed five per cent. of the penalty for his services in making the collection.

Annual fees.

Besides the special taxes mentioned above, certain companies are required to pay annual fees,[1] for example, insurance companies and fraternal insurance orders. These fees are applied to the support of central bureaus of supervision, such as the office of State superintendent of insurance and of State fire marshal. "Building and loan associations are likewise controlled from a central office, and pay an excise tax upon their capital stock."[2]

Collateral and direct inheritance taxes.

Another form of excise tax is the collateral inheritance tax. This is a tax of five per cent. laid on the estates of deceased persons, when those who receive the property are only remotely related to or dependent on the deceased. The tax is charged on all estates valued at more than two hundred dollars. Still another form is the direct inheritance tax of two per cent. on the excess of any property above $3,000 in value inherited by a near relative or lineal descendant.[3] But bequests to the State, a local government, a public institution of learning, an institution of public charity, or for any other exclusively public purpose are not subject to the tax.

Taxation of the traffic in liquor and in cigarettes.

Persons or associations that engage in the traffic in intoxicating liquors are required to pay an annual tax of $350 for each place maintained by them for such business. This tax is collected by the county treasurer, who, in case of refusal or neglect to pay the tax, adds a penalty of four per cent. and has the goods of the delinquent party sold in order to recover the amount due.

[1] Bates, *Statutes*, § 148*a*.
[2] Orth, *The Centralization of Administration in Ohio*, 98.
[3] *Ohio Laws*, v. 97, 398.

It is possible for the citizens of a municipality, or of a township, to prevent the sale of liquor within their district. To bring this about, forty per cent. of the electors in the case of a municipality, or twenty-five per cent. in the case of a township, must petition for a special election for the decision of the question. If in either case a majority of the electors vote against the sale of intoxicants, the business must cease in the district after thirty days. This is known as "local option."[1] As a special tax is imposed on the liquor traffic, so also one is imposed on the cigarette traffic. The cigarette tax amounts to $30 a year for wholesale dealers and $15 a year for retail dealers. It is collected by the county treasurer. After collection the special taxes are reported like the property taxes to the State auditor, and are then duly distributed according to the purposes for which they are raised.

Liquidation of the fund State debt.

The year 1903, the centennial year in the history of the State, was signalized by the payment of the last installment of the funded debt of the State. Hereafter, the revenue derived from the special taxes, including the inquisitor law, will doubtless be adequate to pay the annual State budget. In other words, the State will not require any of the taxes from real property, which accordingly can remain in the counties where they are levied.

84. Control of Public Expenditures

Public money for public purposes.

The regulation of the methods of raising public revenue is undoubtedly an important part of public finance. A still more important part is the regulation of public expenditures, for this serves directly to secure economy

[1] *Ohio Laws*, v. 95, 88; Bates, *Statutes*, § (5464-24).

and honesty in the affairs of the people. The constitution restricts the expenditure of public money to public purposes. Thus it declares that the credit of the State shall not be given or loaned in aid of any individual, association or corporation, and that the State shall never become a joint owner or stockholder in any company or association. It declares further that the legislature shall never authorize any local government, by vote of its citizens or otherwise, to become a stockholder in any joint stock company, corporation, or association, or raise money, or loan its credit in aid of any such association.[1]

Taxes voted for definite purposes only.

But even the raising of revenue for legitimate public purposes is regulated and restricted. A clause in the constitution provides that "no tax shall be levied, except in pursuance of law; and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied."[2] This provision is wholesome, because it secures publicity as regards the object for which the public money is to be expended. Moreover, the laws granting the power to the different local communities to levy taxes limit the rate of taxation for each according to the amount of taxable property of the community concerned. These laws are, of course, intended to prevent taxation from becoming burdensome, while at the same time lessening the danger of improper expenditures. However, certain needs involving an increase of taxation and expenditure are left to the decision of the voters of the community, without whose

[1] *Constitution of Ohio* (1851), Art. VIII. §§ 4, 6.
[2] *Ibid.*, Art. XII. § 5.

consent the taxing body may not levy the required increase.[1]

Appropriations and payments.

Another safeguard of the public finances is found in that clause of the constitution which says that "no money shall be drawn from the treasury, except in pursuance of a specific appropriation made by law."[2] The appropriation sets apart money for a definite purpose; but even then the money can not be paid out of the treasury, except on a warrant or order from the State auditor. The same general rule holds for the local governments. Money is voted for a specific object by the county commissioners, township trustees, city council, or board of education, as the case may be; but it cannot be paid out except on the warrant of the auditor of the county or the corresponding officer of the other local divisions.

Restrictions on borrowing.

The law recognizes the fact that the financial necessities of the State or a local government may exceed the limits of its ordinary revenues. Hence provision is made for governmental borrowing. When borrowing is necessary for other than a temporary purpose the government issues bonds on which it pays a specified rate of interest. The bonds are usually made to mature or come due in equal annual amounts until all are

[1] For example, the county commissioners are forbidden to levy a tax or appropriate money for a county building, site or bridge costing more than $10,000 without first submitting the matter to the electors of the county. The township trustees may not levy a tax for the establishment and support of a public library without in like manner submitting the question to the decision of the township electors. The council of a municipal corporation is prohibited from levying a greater tax than that authorized by law, except after submitting the matter to a vote of the electors of the corporation, and then only in case two-thirds of those voting approve the proposition.

[2] *Constitution of Ohio* (1851), Art. II. § 22.

paid. As ease of borrowing would surely lead to waste and corruption in public affairs, the public credit is protected by the legal restrictions placed on the right to borrow. The constitution limits the power of the State to contract debts for current expenses to $750,000; but this restriction does not apply to expenditures for military purposes in time of war or insurrection, or the right of the State to assume debts of "any county, city, town or township, or of any corporation whatever, incurred in repelling invasion, suppressing insurrection or defending the State in war."[1] The power of the county commissioners to borrow money is limited mainly to such purposes as erecting buildings and bridges; and the bonds issued by them to supply the money must not bear more than six per cent. interest, nor run for more than twenty years. In the case of townships and municipalities the purposes and amounts for which bonds may be issued are definitely set forth in the laws, as are also other limitations placed on the power of borrowing granted to these governments.[2]

Sinking funds.

Governments that borrow, no less than individuals, are under obligation to pay their debts. To this end the laws of the State authorize the maintenance of "sinking funds." A sinking fund may be defined as a fund arising from particular taxes, which is set apart to pay the interest and reduce the principal of a public debt. The constitution requires the maintenance of a State sinking fund sufficient to pay the accruing interest on the indebtedness of the State, and to pay off annually not less than $100,000 of the principal.[3] The last pay-

[1] *Constitution of Ohio* (1851), Art. VIII. §§ 2, 5.
[2] Act of April 29, 1902; *Municipal Code*, §§ 95-100.
[3] *Constitution of Ohio* (1851), Art. VIII. § 7.

ment of the funded debt of the Commonwealth was made in 1903. The laws have likewise required the local governments to create similar funds for the extinguishment of their debts; and the taxing bodies of the State and local governments are all empowered to make a levy on the taxable property of their respective districts for this purpose, in addition to the taxes levied for other purposes.

Accounts.

It remains only to be noted that every officer having charge of public money is required to give security before entering on his duties, to keep accurate accounts of receipts and expenditures, to file vouchers and receipts for all money transactions, to have his books regularly audited by an officer designated by law for that purpose, and to submit his accounts for examination at stated periods and at such other times as it may be necessary. The publication of accounts is also required in the case of some of these officers. The care taken to prevent fraud and secure publicity in the handling of public money will be sufficiently illustrated by the procedure followed at the State treasury, and by the uniform auditing system recently adopted by this State. Every State officer, board, or department receiving money on behalf of the Commonwealth is required to pay it to the State treasurer every week, and at the same time file a verified statement of such receipts with the State auditor, who must keep a strict account of all moneys and securities. Moreover, the auditor and treasurer must compare and balance their accounts at the close of each week, jointly publish a monthly statement, make a settlement every quarter, and in December the treasurer must publish in two Columbus papers a tabulated summary of receipts and expenditures for the

preceding year. The moneys that come into the treasurer's hands are not permitted to lie idle in the treasury. They are placed on deposit with certain banks and trust companies, called State depositories, and designated, under a law of 1904, by a board of deposit consisting of the treasurer of the State, auditor of the State, and attorney general. Banks wishing to become depositories must make application to the board, and fulfill certain conditions, among them being the payment of not less than two per cent. interest to the State.

The uniform auditing system.

The uniform auditing system is the result of an act passed in 1901. By this act the auditor of state is required to "formulate, prescribe, and install a system of accounting and reporting that shall be uniform for every public office and every public account of the same class" throughout the State. Separate accounts must be kept for every appropriation and fund, and must show in detail how such funds were used. Separate and detailed accounts are also to be kept for every public service industry, whether owned and operated by municipalities or by private parties. The State auditor is authorized to call for accounts and statistics from every taxing body and public institution in the State, including a statement of all debts, the purpoſs for which such debts were created, and the provisions made for their payment. It is the duty of every public officer and employee to keep the accounts of his office in the form prescribed, and to make all reports required by the auditor of state. To carry these provisions into effect, a bureau of inspection and supervision of public offices is created, with the State auditor *ex officio* as its head. The auditor appoints not more than three deputy inspectors to assist him, and as many State examiners as may be

needed. These officials have the power "to examine into all financial affairs of every public office and officer and shall make such examination at least once every year."[1] Thus it is proposed to keep a close watch over all financial transactions of a public nature throughout the State.

Conclusion.

In the pages of this book we have traced the evolution of the government of Ohio, and have studied the existing organization and the functions of the governmental machinery of the State. The government, rightly administered, enables the people to make extensive material improvements, promote justice, extend protection to life and property, obtain the benefits of public education, care for the dependent, defective, and delinquent classes, control certain economic interests, conduct the finances of the State, and enjoy the blessings of freedom. Our study has been to little purpose if it has not helped to prepare us for the duties of citizenship; and we have realized but little how important has been the political development of Ohio if we have failed to learn that the people of this State had new problems to meet, and that in solving them they cleared the way for the more rapid development of the other States of the Northwest, all of which were organized at a later time.

[1] *Ohio Laws*, v. 95, p. 511; Orth, *The Centralization of Administration in Ohio*, 102-104; *Ohio Laws*, v. 97, pp. 271-274.

APPENDIX A

85. Chronological Outline of the History of Ohio

(1) The Territorial Period

1609. James I of England made a grant of land to the London Company that included most of the region north of the Ohio River.

1656. The Iroquois Indians of New York conquered the Eries.

1670. La Salle, the French explorer, discovered the Ohio River, and descended it in a canoe as far as the falls of Louisville, Ky.

1671. France took formal possession of the Northwest.

1680. The French built a military post, named Ft. Miami, near the mouth of the Maumee River. This was one of a line of forts intended to connect the Mississippi with Montreal.

1697. By the treaty of Ryswick, France laid claim to the valley of the Ohio.

1726. The Iroquois conveyed their lands in trust to England.

1748. The English established a trading post, called Pickawillany, near the site of the present city of Piqua in Miami County.

1749. De Celeron sailed down the Ohio for the purpose of establishing the French dominion over the western country. He buried leaden plates at various points inscribed with Louis XV's proclamation of sovereignty.

1751. Christopher Gist made an exploring trip for the Ohio Land Company of Virginia from the Muskingum River to Pickawillany.

1752. The French, helped by Indians, captured Pickawillany, and carried the English traders to Canada.

1754. A company of Virginians under Washington were driven from the forks of the Ohio River by the French, who built Ft. Duquesne.

1756. Outbreak of the French and Indian War.

1763. By the treaty of Paris, which concluded the French and Indian War, the English secured the disputed territory east of the Mississippi. The conspiracy of Pontiac.

1769. Virginia passed an act extending her jurisdiction over the territory north of the Ohio.

1776-1783. Border warfare between the whites and Indians in the Ohio country.

1778. George Rogers Clark, acting under a commission from Virginia, captured the British posts on the Ohio and the Wabash. Virginia established the County of Illinois, which included the whole region bounded by the Ohio, the Mississippi, and the Great Lakes.

1781. New York ceded her western claims to the United States.

1783. Great Britain recognized the independence of the United States, and yielded all her possessions south of Canada.

1784. Virginia ceded her western lands to the United States.

1785. Massachusetts ceded her western claims to the United States. In May Congress passed the Land Ordinance providing for the survey, sale, and settlement of the western lands.

1786. Connecticut ceded her western lands to the United States, except the "Western Reserve" in the Ohio country.

1787. July 13, Congress enacted the Northwest Ordinance, providing the frame of government for the Northwest Territory. The Ohio Company of New England was organized in Boston, Mass., and purchased lands at the mouth of the Muskingum River.

1787-8. Constitution of the United States framed and adopted.

1788. April 7, the first permanent English settlement in Ohio was established at Marietta on the Ohio Company's purchase. Marietta became the seat of government for the Northwest Territory. In October, John Cleves Symmes bought the lands between the Little and Great Miami rivers for settlers. Losantiville (afterwards Cincinnati) was laid out. Other settlements followed in rapid succession. General Arthur St. Clair, governor of the Northwest Territory, arrived at Marietta and inaugurated the first Territorial government of the United States.

1791. St. Clair was overwhelmingly defeated in western Ohio by the Indians.

1793. First newspaper in the Northwest appeared at Cincinnati.

1794. August 20, General Anthony Wayne broke the power of

the Indians in the battle of Fallen Timbers, near the Maumee Rapids.

1795. Treaty of Greenville was signed at Greenville, in Dark County, between the United States and eleven Indian tribes, establishing an enduring peace. "Maxwell Code" adopted: it consisted of a number of laws borrowed from some of the older States and enacted by the governor and judges. Dayton laid out. Treaty with Spain opening the navigation of the Mississippi to the United States.

1796. City of Cleveland founded by General Moses Cleveland and his party, sent out by the Connecticut Land Company, which had purchased most of the Western Reserve. Chillicothe laid out.

1798. William Henry Harrison appointed Secretary of the Northwest Territory. Third Monday of December, the first Territorial legislature elected.

1799. September 16, first legislative session was begun at Cincinnati, by which William Henry Harrison was chosen delegate to Congress.

1800. Congress divided the Northwest Territory by erecting Indiana Territory, which comprised roughly the present States of Indiana, Illinois, Michigan and Wisconsin. Connecticut ceded the Western Reserve to the United States.

1802. April 30, Congress passed an enabling act, authorizing the call of a convention to frame a constitution for the proposed State of Ohio. Governor St. Clair removed, and Charles W. Byrd appointed Acting Governor. November 29, constitution adopted, and Chillicothe designated as State capital.

(2) The Period of Statehood

1803. February 19, Congress recognized the new State by making it a United States judicial district. March 1, the first State legislature met at Chillicothe, appointed the first State officers, divided the State into judicial districts, and organized eight new counties. October 17, representatives and senators took their seats in Congress.

1804. The Firelands and all of the Western Reserve west of the Cuyahoga, together with the lands south to Wayne's

treaty line, were purchased from the Indians. Ohio University opened at Athens.

1807-10. Contest between the legislative and judicial branches of the State government. Struggle terminated by the legislature's enactment of the "sweeping resolutions" removing all the judicial officers of the State.

1808. Legislature removed seat of government to Zanesville.

1811. Tecumseh's confederation of Indian tribes, formed to drive the whites out of Ohio, was defeated by General William Henry Harrison in the battle of Tippecanoe.

1812. February 14, Columbus designated as the capital, but the seat of government was removed temporarily to Chillicothe.

1812-15. During the War of 1812 General Harrison was put in command in the Northwest to protect the Northern frontier.

1816. The seat of government permanently fixed at Columbus.

1817-18. United States purchased from the Indians "all that part of the State north of the Wayne's treaty line and west of the Firelands," except a few tracts. Sandusky settled.

1819. The State attempted to tax United States banks, but its action was held to be invalid by the Federal Supreme Court.

1825. February 5, act passed authorizing construction of canal system. Also law providing for public schools. July 4, work on canals begun. Akron settled. Kenyon College opened.

1827. Western Reserve University opened at Hudson.

1831. Dennison University established.

1833. Oberlin College opened.

1835. Boundary line dispute between Ohio and Michigan settled by Congress in favor of Ohio. Michigan was given the Upper Peninsula. Marietta College established.

1836. The pioneer Ohio railroad, the Erie and Kalamazoo, running between Toledo, O., and Adrian, Mich., began operations, horses being used at first as motive power. The Mad River and Lake Erie Railroad was opened for traffic in 1839.

1839. July 4, corner stone of the present State capitol was laid.

1840. Ohio became the third State in the Union in point of

population. Federal census showed 1,519,467. William Henry Harrison of Ohio elected President.

1846. The State furnished over 5500 men for the Mexican War.

1848. The Little Miami Railroad, running from Cincinnati to Springfield, was connected with the Mad River road, thus forming the first line across the State. Repeal of the "black laws."

1850. May 6, second constitutional convention met at Columbus.

1851. New constitution ratified by popular vote.

1853. General school law passed recognizing the township as the school district, and providing a township board of education; also levying a tax of one and a half mills for school purposes.

1861. April 13, President Lincoln's first call for troops. Within twenty-four hours 20 Ohio companies offered their services, and within a fortnight 30,000 men presented themselves. Only 13,000 had been called for from Ohio. The legislature appropriated $1,000,000 for military purposes. At the end of the year Ohio had 50 regiments of infantry and cavalry and 12 batteries of artillery in the field; and 35 more regiments ready or forming for service.

1862. Under the President's call of July 2, for 300,000 men, Ohio furnished 58,325.

1863. Raid of the Southern general, John Morgan, with 2000 men through southern and eastern Ohio. State militia called out, many of the raiders captured, Morgan surrendered near New Lisbon, Columbiana County.

1865. Ohio furnished about 340,000 soldiers of all arms to the Union army during the Civil War, or more than one-tenth of the entire Northern forces.

1866. June and July, last of Ohio's volunteer army mustered out of service. University of Wooster founded.

1870. Ohio State University founded at Columbus under the name, Ohio Agricultural and Mechanical College. Act passed establishing University of Cincinnati.

1871. Question of holding a constitutional convention was carried by popular vote.

1873. May 13, constitutional convention met and, after a session of 185 days, drafted a new constitution. September, Ohio State University began its first session.

1873-4. Women's temperance crusade was started in Washington Court-House, and swept over most of the State.

1874. August 18, people rejected the new constitution.

1876. April, strike among the coal-miners of Stark and Wayne counties. State militia sent to quell the riots. Rutherford B. Hayes of Ohio elected President.

1877. Legislature passed the compulsory education act, requiring children to attend school at least 12 weeks in each school year. Act passed providing school of mines and mine-engineering in State University.

1879. Codification of statutes adopted by the legislature also law against bribery and intimidation at elections. Amendments to State constitution rejected at October election.

1880. James A. Garfield of Ohio elected President.

1883. By amendment of the constitution circuit courts were substituted for district courts in the State.

1884. February, Ohio River flood submerged many towns and rendered thousands of people destitute. February 14, water stood at 71 feet and three-fourths of an inch at Cincinnati, the highest ever recorded. March 28, riot in Cincinnati caused by failure to convict two confessed murderers of the crime charged against them—murder in the first degree. Mob attacked the jail and partly burned the court-house. Troops from all parts of the State were sent in, and quelled the disturbance after six days.

1884-5. Strike of coal miners in Hocking Valley region continued a year. Destruction of property caused the governor to send four companies of troops, which, however, were soon recalled. Terms named by the employers were finally accepted by the men.

1885. Four constitutional amendments ratified in October election, three of which changed time of elections from October to November.

1886. "Dow law" enacted, imposing tax of $200 yearly on saloons selling spirituous and other liquors, and $100 on those selling only malt and vinous liquors; also authorized local option in towns. Election of fourteen Democratic members of the legislature from Hamilton County contested on account of alleged frauds at the polls. Republicans unseated the Hamilton County members, and redistricted the State for congressional purposes, thereby gaining four seats in Congress. November elections held under the constitutional amendments. Laws passed establishing State Board of Health,

reorganizing Ohio National Guard, creating office of Dairy and Food Commissioner, providing for appointment of Fish and Game Commissioners, and for registration of voters and regulating elections in Cincinnati and Cleveland.

1888. Centennial of settlement of Ohio celebrated at Marietta, Cincinnati and Columbus. A secret order, called the "White Caps," takes the law into its own hands in the southern part of the State, but is soon disbanded. State Board of Pardons created by the legislature.

1891. Australian ballot system adopted. School book commission established by Pennell school-book act to regulate adoption and purchase of text-books by school-boards. Federal plan of government adopted for Cleveland.

1892. The "Workman law" gave the management of the schools of each township to a township board of education. The "Boxwell law" admits pupils who have graduated from a township school to the nearest village high school.

1893. Ohio was the only State, except Pennsylvania, having exhibits in every department and section in the World's Fair, and the only State represented by an exhibit from every one of its public institutions.

1894. For the first time since the adoption of the constitution of 1851 the legislature made provision for two years' expenditures. Women given the right to vote for school officers and to sit on school boards.

1895. First observance of the constitutional provision for a biennial session of the legislature, no adjourned session being held this year.

1896. Laws passed increasing the yearly tax on traffic in intoxicants from $250 to $350; creating State Board of Medical Examiners; levying excise tax on electric light, gas, street railroad, and other companies holding public franchises; providing for establishment of the naval brigade; to prevent corrupt practices at elections and regulate expenditures of candidates; providing for capital punishment by electrocution; making Saturday afternoon a legal holiday in cities of 50,000 or more inhabitants; and providing school-books for common schools at lowest prices. William McKinley of Ohio elected President.

1897. No adjourned session of the legislature this year; thus

the constitutional provision for a biennial session was again observed.

1898. In the war with Spain Ohio's volunteers comprised 9 regiments and 1 battalion of infantry, 8 troops of cavalry, and 1 battalion of artillery. The total number of Ohio volunteers, including those enlisted in United States volunteer regiments, was 15,300.

1899. Prolonged street-railway strike in Cleveland.

1900. Laws enacted creating the offices of Chief Examiner and Deputy Examiners of Steam Engineers, State Fire Marshal, and Commissioner of Soldiers' Claims; providing for centralization of township schools, and for appointment of county game wardens vested with police powers. William McKinley of Ohio re-elected President.

1902. Laws passed requiring domestic and foreign corporations other than quasi-public corporations to file annual reports and pay annual fees of one-tenth of one per cent. on invested capital stock; increasing the annual tax on electric light, gas, telephone, railroad, and other corporations; and establishing State normal schools at Ohio and Miami Universities. Special session of legislature (August 25 to October 22) enacted new municipal code.

1903. Celebration at Chillicothe of the centennial of Ohio's birth as a State. Adoption of amendments to the constitution, abolishing the double liability of stockholders, giving the governor the veto power, and providing for single legislative districts.

1904. Enactment of new school code, and of laws revising the primary election, registration, and election laws of the State; abolishing spring elections; granting local option to residence districts of municipal corporations; creating a State highway department and a State board of deposit; providing juvenile courts for certain counties; establishing the Home of the Ohio Soldiers, Sailors, and Marines, their Wives, Mothers, and Widows, and Army Nurses, at Madison; and adopting the scarlet carnation as the floral emblem of Ohio.

86. General Officers of the Northwest Territory

Governors

(Smith, *The St. Clair Papers*, I., 135, 244-246.)

Name	*Appointed From*	*Appointed*	*Served*
St. Clair . .	Pennsylvania	At first by Congress; after 1789 by the President and Senate.	Oct. 1787, to Nov. 1802 [1]
Byrd . . .	. . . . .	Acting governor	Nov. 1802, to Mar. 1803

[1] Removed by President Jefferson. The governor's term of office was three years, and when a vacancy occurred the secretary served as governor until a new governor was appointed.

Judges[1]

(Gilkey, *The Ohio Hundred Year Book*, 465, 466; Smith, *The St. Clair Papers*, I., 135, 145 note; Granger, *The Judiciary of Ohio, 1803-1903*, 30.)

Name	*Appointed From*	*Appointed By*	*Served*
Parsons . .	Connecticut	Congress	Oct. 1787, to Nov. 1789
Varnum . .	Rhode Island	"	Oct. 1787, to Feb. 1789
Symmes . .	New Jersey	"	Feb. 1788, to Mar. 1803
Turner. . .		George Washington	Sept. 1789, to Feb. 1798
Putnam . .	Massachusetts	" "	Jan. 1790, to Oct. 1796
Gilman . .		" "	Nov. 1796, to Mar. 1803
Meigs . . .	Ohio	John Adams	Feb. 1798, to Mar. 1803

[1] The Ordinance of 1787 provided for three judges, who were to serve during good behavior. John Armstrong was appointed at the same time as Parsons and Varnum, but declined, and Symmes was appointed. Vacancies occurred soon on account of the deaths of Varnum and Parsons, and were filled by the appointment of Turner and Putnam respectively. Judge Putnam resigned in 1796 to accept the office of Surveyor-General, and was succeeded by Gilman. Judge Turner also resigned in 1796, when he removed from the Territory, and was succeeded by Meigs. Thus the three judges serving when Ohio became a State were Symmes, Gilman and Meigs. The judges were appointed by Congress prior to the adoption of the Constitution of the United States in 1789, but after that they were nominated by the President and confirmed by the Senate.

SECRETARIES

(Smith, *The St. Clair Papers*, I., 135, 207, 214, 222; McClintock, "Ohio's Birth Struggle" in *Ohio Archeological and Historical Society Publications*, XI., 56.)

Name	*Appointed From*	*Appointed By*	*Served*
Sargent .	Northwest Tr.	At first by Congress; after 1789 by the President and Senate.	Oct. 1787, to June, 1798
Harrison .	Massachusetts	Pres't John Adams	June, 1798,to Oct. 1799 [1]
Byrd . .		" " "	Dec. 1799, to Mar. 1803

[1] The office was vacant from October 3, 1799, until December 30 of the same year, the latter being the date of Byrd's appointment. The Secretary's term of office was four years.

ATTORNEY GENERAL

(Atwater, *History of Ohio*, 162; Smith, *The St. Clair Papers*, I, 196.)

Name	*Appointed By*	*Served*
Arthur St. Clair, Jr. . .	Governor St. Clair	1799-1803 (?)

87. GOVERNORS OF OHIO, WITH THE DATES OF THEIR ACCESSION

The present Democratic party claims descent from the earlier Republican-Democratic Party. The change of name appears to have taken place between 1805 and 1820.

Order of Election	*Politics*	*County*	*Date of Accession*
Edward Tiffin[1]	Rep.-Dem.	Ross	1803
Thomas Kirker (acting) . .	Rep.-Dem.	Adams	1807
Samuel Huntington . . .	Rep.-Dem.	Trumbull	1809

[1] Elected and sworn March 3, 1803; resigned March 3, 1807, to become United States Senator.

87. Governors of Ohio, with the Dates of their Accession—Continued

Order of Election	*Politics*	*County*	*Date of Accession*
Return Jonathan Meigs[2] . .	Rep.-Dem.	Hamilton	1811
Othneil Looker (acting) . .	Rep.-Dem.	Washington	1814
Thomas Worthington . . .	Rep.-Dem.	Ross	1815
Ethan Allen Brown[3] . . .	Rep.-Dem.	Hamilton	1819
Allen Trimble (acting) . .	Federalist	Highland	1822
Jeremiah Morrow	Democrat	Warren	1823
Allen Trimble	Federalist	Highland	1827
Duncan McArthur	Federalist	Ross	1831
Robert Lucas	Democrat	Pike	1833
Joseph Vance	Whig	Champaign	1837
Wilson Shannon	Democrat	Belmont	1839
Thomas Corwin	Whig	Warren	1841
Wilson Shannon[4]	Democrat	Belmont	1843
Thomas W. Bartley (acting)	Democrat	Richland	1844
Mordecai Bartley	Whig	Richland	1845
William Bebb	Whig	Butler	1847
Seabury Ford	Whig	Geauga	1849
Reuben Wood[5]	Democrat	Cuyahoga	1851
William Medill (acting, 1853)	Democrat	Fairfield	1853
Salmon P. Chase	Republican	Hamilton	1856
William Dennison, Jr. . . .	Republican	Franklin	1860
David Tod	Republican	Mahoning	1862
John Brough[6]	Republican	Cuyahoga	1864
Charles Anderson (acting) .	Republican	Montgomery	1866
Jacob Dolson Cox	Republican	Hamilton	1866
Rutherford B. Hayes . . .	Republican	Hamilton	1868
Edward F. Noyes	Republican	Hamilton	1872
William Allen	Democrat	Ross	1874
Rutherford B. Hayes[7] . . .	Republican	Sandusky	1876
Thomas L. Young (acting) .	Republican	Hamilton	1877
Richard M. Bishop	Democrat	Hamilton	1878
Charles Foster	Republican	Seneca	1880
George Hoadly	Democrat	Hamilton	1884
Joseph B. Foraker	Republican	Hamilton	1886
James E. Campbell	Democrat	Butler	1890
William McKinley, Jr. . .	Republican	Stark	1892
Asa S. Bushnell	Republican	Clark	1896
George K. Nash	Republican	Franklin	1900
Myron T. Herrick	Republican	Cuyahoga	1904

[2] Governor Meigs was appointed Postmaster General February 25, 1814, and resigned.

[3] Resigned January 4, 1822, to become United States Senator.

[4] Resigned April 15, 1843, to become Minister to Mexico.

[5] Resigned July 30, 1853, to become Consul at Valparaiso.

[6] Died, August 25, 1865.

[7] Resigned February 28, 1877, to become President.

APPENDIX B

88. Ordinance of 1787

(Enacted by the Congress of the Confederation, July 13, 1787. *Journals of Congress*, XII, 58.)

An Ordinance for the government of the territory of the United States northwest of the river Ohio.

Section 1. *Be it ordained by the United States in Congress assembled,* That the said territory, for the purpose of temporary government, be one district, subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

Sec. 2. *Be it ordained by the authority aforesaid,* That the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among, their children and the descendants of a deceased child in equal parts, the descendants of a deceased child or grandchild to take the share of their deceased parent in equal parts among them; and where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate shall have, in equal parts among them, their deceased parent's share; and there shall, in no case, be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one-third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her in whom the estate may be, (being of full age,) and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered by the person, being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and

such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers, shall be appointed for that purpose; and personal property may be transferred by delivery, saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskies, Saint Vincents, and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

Sec. 3. *Be it ordained by the authority aforesaid,* That there shall be appointed, from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

Sec. 4. There shall be appointed from time to time, by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office. It shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department, and transmit authentic copies of such acts and proceedings every six months to the Secretary of Congress. There shall also be appointed a court, to consist of three judges, any two of whom to form a court, who shall have a common-law jurisdiction, and reside in the district, and have each therein a freehold estate, in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behavior.

Sec. 5. The governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original States, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress from time to time, which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by Congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

Sec. 6. The governor, for the time being, shall be commander-in-chief of the militia, appoint and commission all officers in the same below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

Sec. 7. Previous to the organization of the general assembly

the governor shall appoint such magistrates, and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same. After the general assembly shall be organized the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

Sec. 8. For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed, from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

Sec. 9. So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly: *Provided,* That for every five hundred free male inhabitants there shall be one representative, and so on, progressively, with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five; after which the number and proportion of representatives shall be regulated by the legislature: *Provided,* That no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and, in either case, shall likewise hold in his own right, in fee-simple, two hundred acres of land within the same: *Provided also,* That a freehold in fifty acres of land in the district, having been a citizen of one of the States, and being resident in the district, or the like freehold and two years' residence in the district, shall be necessary to qualify a man as an elector of a representative.

Sec. 10. The representatives thus elected shall serve for a term of two years; and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township, for which he was a member, to elect another in his stead, to serve for the residue of the term.

Sec. 11. The general assembly, or legislature, shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by Congress; any three of whom to be a quorum; and the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected the governor shall appoint a time and place for them to meet together, and when met they shall nominate ten persons, resident in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress, five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to Congress, one of whom Congress shall appoint and commission for the residue of the term; and every five years, four months at least before the expiration of the time of service of the members of the council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to Congress, five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives shall have authority to make laws in all cases for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills, having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill, or legislative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue, and dissolve the general assembly when, in his opinion, it shall be expedient.

Sec. 12. The governor, judges, legislative council, secretary, and such other officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity, and of office; the governor before the President of Congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the council and house assembled, in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting, during this temporary government.

Sec. 13. And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these

republics, their laws and constitutions, are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said territory; to provide, also, for the establishment of States, and permanent government therein, and for their admission to a share in the Federal councils on an equal footing with the original States, at as early periods as may be consistent with the general interest:

Sec. 14. It is hereby ordained and declared, by the authority aforesaid, that the following articles shall be considered as articles of compact, between the original States and the people and States in the said territory, and forever remain unalterable, unless by common consent, to wit:

ARTICLE I.

No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship, or religious sentiments, in the said territories.

ARTICLE II.

The inhabitants of the said territory shall always be entitled to the benefits of the writs of *habeas corpus*, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offences, where the proof shall be evident, or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or by the law of the land, and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made or have force in the said territory, that shall, in any manner whatever, interfere with or affect private contracts, or engagements, *bona fide*, and without fraud previously formed.

ARTICLE III.

Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the

means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

ARTICLE IV.

The said territory, and the States which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the Federal debts, contracted, or to be contracted, and a proportional part of the expenses of government to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other States; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district, or districts, or new States, as in the original States, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts, or new States, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona fide* purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and Saint Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory as to the citizens of the United States, and those of any other States that may be admitted into the confederacy, without any tax, impost, or duty therefor.

ARTICLE V.

There shall be formed in the said territory not less than three nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession and consent to the

same, shall become fixed and established as follows, to wit: The western State, in the said territory, shall be bounded by the Mississippi, the Ohio, and the Wabash rivers; a direct line drawn from the Wabash and Post Vincents, due north, to the territorial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and Mississippi. The middle State shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio, by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern State shall be bounded by the last-mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: *Provided, however,* And it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever; and shall be at liberty to form a permanent constitution and State government: *Provided,* The constitution and government, so to be formed, shall be republican, and in conformity to the principles contained in these articles, and, so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.

ARTICLE VI.

There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: *Provided always,* That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid.

Be it ordained by the authority aforesaid, That the resolutions of the 23d of April, 1784, relative to the subject of this ordinance, be, and the same are hereby, repealed, and declared null and void.

Done by the United States, in Congress assembled, the 13th

day of July, in the year of our Lord, 1787, and of their sovereignty and independence the twelfth.

89. The Enabling Act of Ohio, 1802[1]

(*U. S. Statutes at Large*, II, 173.)

An act to enable the people of the eastern division of the territory northwest of the river Ohio to form a constitution and state government and for the admission of such state into the Union on an equal footing with the original States, and for other purposes.

Section 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the inhabitants of the eastern division of the territory northwest of the river Ohio, be, and they are hereby, authorized to form for themselves a constitution and State government, and to assume such name as they shall deem proper, and the said State, when formed, shall be admitted into the Union upon the same footing with the original States in all respects whatever.

Sec. 2. *And be it further enacted,* That the said State shall consist of all the territory included within the following boundaries, to wit: Bounded on the east by the Pennsylvania line, on the south by the Ohio River to the mouth of the Great Miami River, on the west by the line drawn due north from the mouth of the Great Miami aforesaid, and on the north by an east and west line drawn through the southerly extreme of Lake Michigan, running east after intersecting the due north line aforesaid, from the mouth of the Great Miami until it shall intersect Lake Erie or the territorial line, and thence from the same through Lake Erie to the Pennsylvania line aforesaid: *Provided,* That Congress shall be at liberty at any time hereafter either to attach all the territory lying east of the line to be drawn due north from the mouth of the Miami aforesaid to the territorial line, and north of an east and west line drawn

[1] One of the first steps in the admission of a new State to the Union is the enactment by Congress of an act authorizing the people of the Territory to form a State government. Such an act is technically known as an *enabling act*, and it is usually followed by a second act approving of the new constitution which has been formed and declaring the new State admitted to the Union. In the case of Ohio, the provisions of the enabling act were such as to make it unnecessary to pass a second act admitting the State to the Union.

through the southerly extreme of Lake Michigan, running east as aforesaid to Lake Erie, to the aforesaid State, or dispose of it otherwise, in conformity to the fifth article of compact between the original States and the people and States to be formed in the territory northwest of the river Ohio.

Sec. 3. *And be it further enacted,* That all that part of the territory of the United States northwest of the river Ohio, heretofore included in the eastern division of said territory, and not included within the boundary herein prescribed for the said State, is hereby attached to, and made a part of, the Indiana Territory, from and after the formation of the said State, subject, nevertheless, to be hereafter disposed of by Congress, according to the right reserved in the fifth article of the ordinance aforesaid, and the inhabitants therein entitled to the same privileges and immunities, and subject to the same rules and regulations in all respects whatever, with all other citizens residing within the Indiana Territory.

Sec. 4. *And be it further enacted,* That all male citizens of the United States, who shall have arrived at full age and reside within the said territory at least one year previous to the day of election, and shall have paid a territorial or county tax, and all persons having in other respects the legal qualifications to vote for Representatives in the General Assembly of the territory, be, and they are hereby, authorized to choose Representatives to form a convention, who shall be appointed amongst the several counties within the eastern division aforesaid, in a ratio of one Representative to every twelve hundred inhabitants of each county, according to the enumeration taken under the authority of the United States, as near as may be, that is to say, from the county of Trumbull, two Representatives; from the county of Jefferson, seven Representatives, two of the seven to be elected within what is now known by the county of Belmont, taken from Jefferson and Washington counties; from the county of Washington, four Representatives; from the county of Ross, seven Representatives, two of the seven to be elected in what is now known by Fairfield County, taken from Ross and Washington counties; from the county of Adams, three Representatives; from the county of Hamilton, twelve Representatives, two of the twelve to be elected in what is now known by Clermont County, taken entirely from Hamilton County; and the elections for the Representatives aforesaid shall take place on the second Tuesday of October next, the time fixed by a law of the territory entitled "An act to ascertain the number

of free male inhabitants of the age of twenty-one in the territory of the United States northwest of the river Ohio, and to regulate the elections of Representatives for the same," for electing Representatives to the General Assembly, and shall be held and conducted in the same manner as is provided by the aforesaid act, except that the qualifications of electors shall be as herein specified.

Sec. 5. *And be it further enacted,* That the members of the convention, thus duly elected, be, and they are hereby, authorized to meet at Chillicothe on the first Monday in November next; which convention, when met, shall first determine, by a majority of the whole number elected, whether it be or be not expedient at that time to form a constitution and State government for the people within the said territory, and if it be determined to be expedient, the convention shall be, and hereby are, authorized to form a constitution and State government, or, if it be deemed more expedient, the said convention shall provide by ordinance for electing Representatives to form a constitution or frame a government; which said Representatives shall be chosen in such manner and in such proportion, and shall meet at such time and place, as shall be prescribed by the said ordinance; and shall form for the people of the said State a constitution and State government, provided the same shall be republican, and not repugnant to the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven, between the original States and the people and States of the territory northwest of the river Ohio.

Sec. 6. *And be it further enacted,* That until the next general census shall be taken, the said State shall be entitled to one Representative in the House of Representatives of the United States.

Sec. 7. *And be it further enacted,* That the following propositions be, and the same are hereby, offered to the convention of the eastern State of the said territory, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States:

First. That the section, number sixteen, in every township, and, where such section has been sold, granted, or disposed of, other lands equivalent thereto and most contiguous to the same, shall be granted to the inhabitants of such township, for the use of schools.

Second. That the six miles reservation, including the salt-springs, commonly called the Scioto salt-springs, the salt-

springs near the Muskingum River, and in the military tract, with the sections of land which include the same, shall be granted to the said State for the use of the people thereof, the same to be used under such terms and conditions and regulations as the Legislature of the said State shall direct: Pro*vided,* The said Legislature shall never sell nor lease the same for a longer period than ten years.

Third. That one-twentieth part of the net proceeds of the lands lying within the said State sold by Congress, from and after the thirtieth day of June next, after deducting all expenses incident to the same, shall be applied to the laying out and making of public roads, leading from the navigable waters emptying into the Atlantic, to the Ohio, to the said State, and through the same, such roads to be laid out under the authority of Congress, with the consent of the several States through which the road shall pass: *Provided always,* That the three foregoing propositions herein offered are on the conditions that the convention of the said State shall provide, by an ordinance irrevocable without the consent of the United States, that every and each tract of land sold by Congress from and after the thirtieth day of June next, shall be and remain exempt from any tax laid by order or under authority of the State, whether for State, county, township, or any other purpose whatever, for the term of five years from and after the day of sale.

Approved April 30, 1802.

90. The Constitution of the State of Ohio of 1851

[N. B.—The Constitution is printed entire in Bates' *Annotated Ohio Statutes,* vol. III, and in Poore, *Charters and Constitutions,* II, 1465. The amendments adopted November 3, 1903, are printed herewith.]

Preamble.

We, the People of the State of Ohio, grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare, do establish this Constitution.

ARTICLE I.—BILL OF RIGHTS

Right to freedom and protection of property.

Section 1. All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.

Sec. 2. All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary; and no special privileges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the general assembly. Right to alter, or abolish government.

Sec. 3. The people have the right to assemble together, in a peaceable manner, to consult for their common good; to instruct their representatives; and to petition the general assembly for the redress of grievances. Of the right to assemble.

Sec. 4. The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be kept up; and the military shall be in strict subordination to the civil power. Of bearing arms.

Sec. 5. The right of trial by jury shall be inviolate. Jury trial.

Sec. 6. There shall be no slavery in this state; nor involuntary servitude, unless for the punishment of crime. Slavery.

Sec. 7. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given, by law, to any religious society; nor shall any interference with the rights of conscience be permitted. No religious test shall be required, as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the general assembly to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction. Of the rights of conscience. The necessity of religion and knowledge.

Sec. 8. The privilege of the writ of habeas corpus shall not be suspended, unless, in cases of rebellion or invasion, the public safety require it. Habeas corpus.

Sec. 9. All persons shall be bailable by sufficient sureties, except for capital offenses where the proof is evident, or the presumption great. Excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishments inflicted. Bailable offenses.

Sec. 10. Except in cases of impeachment, and cases arising in the army and navy, or in the militia when in actual service

Of the trial of accused persons and their rights.

in time of war or public danger, and in cases of petit larceny and other inferior offenses, no person shall be held to answer for a capital, or otherwise infamous crime, unless on presentment or indictment of a grand jury. In any trial, in any court, the party accused shall be allowed to appear and defend in person and with counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district, in which the offense is alleged to have been committed; nor shall any person be compelled, in any criminal case, to be a witness against himself, or be twice put in jeopardy for the same offense.

Of the freedom of speech and of the press.

Of libels.

Sec. 11. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of the right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions for libel, the truth may be given in evidence to the jury, and if it shall appear to the jury, that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted.

Transportation, etc., for crime.

Sec. 12. No person shall be transported out of the State, for any offense committed within the same; and no conviction shall work corruption of blood, or forfeiture of estate.

Of quartering troops.

Sec. 13. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor, in time of war, except in the manner prescribed by law.

Search warrants and general warrants.

Sec. 14. The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the person and things to be seized.

No imprisonment for debt.

Sec. 15. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud

Of redress in courts.

Sec. 16. All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law; and justice administered without denial or delay.

Hereditary privileges, etc.

Sec. 17. No hereditary emoluments, honors, or privileges shall ever be granted or conferred by this State.

Sec. 18. No power of suspending laws shall ever be exercised, except by the general assembly. Suspension of laws.

Sec. 19. Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war or other public exigency, imperatively requiring its immediate seizure or for the purpose of making or repairing roads, which shall be open to the public, without charge, a compensation shall be made to the owner, in money, and in all other cases, where private property shall be taken for public use, a compensation therefor shall first be made in money, or first secured by a deposit of money; and such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner. Of the inviolability of private property.

Sec. 20. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers, not herein delegated, remain with the people. Powers reserved to the people.

ARTICLE II.—LEGISLATIVE

Section 1. The legislative power of this State shall be vested in a general assembly, which shall consist of a senate, and house of representatives. Legislative power.

Sec. 2. Senators and representatives shall be elected biennially, by the electors in the respective counties or districts, on the first Tuesday after the first Monday in November; their term of office shall commence on the first day of January next thereafter, and continue two years. When chosen.

Sec. 3. Senators and representatives shall have resided in their respective counties, or districts, one year next preceding their election, unless they shall have been absent on the public business of the United States, or of this State. Residence.

Sec. 4. No person holding office under the authority of the United States, or any lucrative office under the authority of this State, shall be eligible to, or have a seat in, the general assembly; but this provision shall not extend to township officers, justices of the peace, notaries public, or officers of the militia. Eligibility.

Sec. 5. No person hereafter convicted of an embezzlement of the public funds, shall hold any office in this State; nor shall any person, holding public money for disbursement, or otherwise, have a seat in the general assembly, until he shall have accounted for, and paid such money into the treasury. Who shall not hold office.

Sec. 6. Each house shall be judge of the election, returns, and qualifications of its own members; a majority of all the members elected to each house shall be a quorum to do busi- Powers of each house.

ness; but a less number may adjourn from day to day, and compel the attendance of absent members, in such manner, and under such penalties, as shall be prescribed by law.

Organization of house.

Sec. 7. The mode of organizing the house of representatives, at the commencement of each regular session, shall be prescribed by law.

Rules and right of punishment and expulsion.

Sec. 8. Each house, except as otherwise provided in this constitution, shall choose its own officers, may determine its own rules of proceeding, punish its members for disorderly conduct; and, with the concurrence of two-thirds, expel a member, but not the second time for the same cause; and shall have all other powers, necessary to provide for its safety, and the undisturbed transaction of its business.

Journal and yeas and nays.

Sec. 9. Each house shall keep a correct journal of its proceedings, which shall be published. At the desire of any two members, the yeas and nays shall be entered upon the journal; and, on the passage of every bill, in either house, the vote shall be taken by yeas and nays, and entered upon the journal; and no law shall be passed in either house, without the concurrence of a majority of all the members elected thereto.

Rights of members to protest.

Sec. 10. Any member of either house shall have the right to protest against any act, or resolution thereof; and such protest, and the reasons therefor, shall, without alteration, commitment, or delay, be entered upon the journal.

Vacancies.

Sec. 11. All vacancies which may happen in either house shall, for the unexpired term, be filled by election, as shall be directed by law.

Privilege of members from arrest, and of speech.

Sec. 12. Senators and representatives, during the session of the general assembly, and in going to, and returning from the same, shall be privileged from arrest, in all cases, except treason, felony, or breach of the peace; and for any speech, or debate, in either house, they shall not be questioned elsewhere.

Sessions.

Sec. 13. The proceedings of both houses shall be public, except in cases which, in the opinion of two-thirds of those present, require secrecy.

Power of adjournment.

Sec. 14. Neither house shall, without the consent of the other, adjourn for more than two days, Sundays excluded; nor to any other place than that, in which the two houses shall be in session.

Bills.

Sec. 15. Bills may originate in either house; but may be altered, amended, or rejected in the other.

Sec. 16. Every bill shall be fully and distinctly read three different days, unless, in case of urgency, three-fourths of the

house, in which it shall be pending, shall dispense with the rule. No bill shall contain more than one subject, which shall be clearly expressed in its title; and no law shall be revived, or amended, unless the new act contain the entire act revived, or the section or sections amended; and the section or sections so amended shall be repealed.

Bills to be read three times.

Acts amended.

Every bill passed by both houses of the general assembly shall, before said bill can become law, be presented to the governor. If he approves he shall sign said bill and thereupon said bill shall be law. If he object he shall not sign and shall return said bill, together with his objection thereto in writing, to the house wherein said bill originated, which house shall enter at large upon its journal said objection and shall proceed to reconsider said bill. If, after said reconsideration, at least two-thirds of the members-elect of that house vote to repass said bill it shall be sent, together with said objection, to the other house, which shall enter at large upon its journal said objection and shall proceed to reconsider said bill. If, after said reconsideration, at least two-thirds of the members-elect of that house vote to pass said bill it shall be law, otherwise it shall not be law. The votes for the repassage of said bill shall in each house respectively be no less than those given on the original passage. If any bill passed by both houses of the general assembly and presented to the governor is not signed and is not returned to the house wherein it originated and within ten days after being so presented, exclusive of Sunday and the day said bill was presented, said bill shall be law as in like manner if signed, unless final adjournment of the general assembly prevents such return, in which case shall be law, unless objected to by the governor and filed, together with his objection thereto in writing, by him in the office of the secretary of state within the prescribed ten days; and the secretary of state shall at once make public said fact and shall return said bill, together with said objection, upon the opening of the next following session of the general assembly, to the house wherein said bill originated, where it shall be treated in like manner as if returned within the prescribed ten days.

Governor's veto.

Passage of bill over veto.

If any bill passed by both houses of the general assembly and presented to the governor contain two or more sections, or two or more items of appropriation of money, he may object to one or more of said sections or to one or more of said items of appropriation of money, and approve the other portion of said bill, in which case said approved portion may be signed and then shall be law; and such section or sections, item or items

Governor's power to veto items of a bill.

of appropriation of money objected to shall be returned within the time and in the manner prescribed for, and shall be separately reconsidered as in the case of, a whole bill; but if final adjournment of the general assembly prevents such return the governor shall file said section or sections, item or items of appropriation of money, together with his objection thereto in writing, with the secretary of state as in the case of a whole bill, and the secretary of state shall then make public said fact, but shall not further act as in the case of a whole bill. [*As amended November* 3, 1903.][1]

To be signed by presiding officers.

Sec. 17. The presiding officer of each house shall sign publicly in the presence of the house over which he presides, while the same is in session, and capable of transacting business, all bills and joint resolutions passed by the general assembly.

Style of laws.

Sec. 18. The style of the laws of this State shall be, *"Be it enacted by the General Assembly of the State of Ohio."*

Exclusion from office.

Sec. 19. No senator or representative shall, during the term for which he shall have been elected, or for one year thereafter, be appointed to any civil office under this State, which shall be created or the emoluments of which shall have been increased, during the term for which he shall have been elected.

Salaries, etc.

Sec. 20. The general assembly, in cases not provided for in this constitution, shall fix the term of office and the compensation of all officers; but no change therein shall affect the salary of any officer during his existing term, unless the office be abolished.

Contested elections.

Sec. 21. The general assembly shall determine, by law, before what authority, and in what manner, the trial of contested elections shall be conducted.

Appropriations.

Sec. 22. No money shall be drawn from the treasury, except in pursuance of a specific appropriation, made by law; and no appropriation shall be made for a longer period than two years.

Impeachment, how instituted and conducted.

Sec. 23. The house of representatives shall have the sole power of impeachment, but a majority of the members elected must concur therein. Impeachments shall be tried by the senate; and the senators, when sitting for that purpose, shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the senators.

Sec. 24. The governor, judges, and all State officers, may be

[1] In accordance with a joint resolution of the general assembly, passed May 2, 1902, this amendment was submitted to popular vote, and adopted November 3, 1903.

impeached for any misdemeanor in office; but judgment shall not extend further than removal from office, and disqualification to hold any office, under the authority of this State. The party impeached, whether convicted or not, shall be liable to indictment, trial, and judgment, according to law. Who liable to impeachment and punishment.

Sec. 25. All regular sessions of the general assembly shall commence on the first Monday of January, biennially. The first session, under this constitution, shall commence on the first Monday of January, one thousand eight hundred and fifty-two. When session to commence.

Sec. 26. All laws, of a general nature, shall have a uniform operation throughout the State; nor, shall any act, except such as relates to public schools, be passed, to take effect upon the approval of any other authority than the general assembly, except, as otherwise provided in this constitution. What laws to have a uniform operation.

Sec. 27. The election and appointment of all officers, and the filling of all vacancies, not otherwise provided for by this constitution or the constitution of the United States, shall be made in such manner as may be directed by law; but no appointing power shall be exercised by the general assembly, except as prescribed in this Constitution, and in the election of United States senators; and in these cases the vote shall be taken *"viva voce."* Election and appointment of officers. Vote for U. S. senator.

Sec. 28. The general assembly shall have no power to pass retroactive laws, or laws impairing the obligation of contracts; but may, by general laws, authorize courts to carry into effect, upon such terms as shall be just and equitable, the manifest intention of parties, and officers, by curing omissions, defects, and errors, in instruments and proceedings, arising out of their want of conformity with the laws of this State. Retroactive law.

Sec. 29. No extra compensation shall be made to any officer, public agent, or contractor, after the service shall have been rendered, or the contract entered into; nor shall any money be paid, on any claim, the subject matter of which shall not have been provided for by pre-existing law, unless such compensation, or claim, be allowed by two-thirds of the members elected to each branch of the general assembly. No extra compensation

Sec. 30. No new county shall contain less than four hundred square miles of territory, nor shall any county be reduced below that amount; and all laws creating new counties, changing county lines, or removing county seats, shall, before taking effect, be submitted to the electors of the several counties to be affected thereby, at the next general election after the passage thereof, and be adopted by a majority of all the electors voting New counties.

at such election, in each of said counties; but any county now or hereafter containing one hundred thousand inhabitants, may be divided, whenever a majority of the voters residing in each of the proposed divisions shall approve of the law passed for that purpose; but no town or city within the same shall be divided, nor shall either of the divisions contain less than twenty thousand inhabitants.

Compensation of members.

Sec. 31. The members and officers of the general assembly shall receive a fixed compensation, to be prescribed by law, and no other allowance or perquisites, either in the payment of postage or otherwise; and no change in their compensation shall take effect during their term of office.

Judicial power.

Sec. 32. The general assembly shall grant no divorce, nor exercise any judicial power not herein expressly conferred.

ARTICLE III.—EXECUTIVE

Executive Department.

Section 1. The executive department shall consist of a governor, lieutenant governor, secretary of state, auditor, treasurer, and an attorney general, who shall be elected on the first Tuesday after the first Monday in November, by the electors of the State, and at the places of voting for members of the general assembly. [*As amended October* 13, 1885.]

Term of office.

Sec. 2. The governor, lieutenant governor, secretary of state, treasurer, and attorney general, shall hold their offices for two years; and the auditor for four years. Their terms of office shall commence on the second Monday of January next after their election, and continue until their successors are elected and qualified.

Election returns.

Sec. 3. The returns of every election for the officers named in the foregoing section shall be sealed up and transmitted to the seat of government, by the returning officers, directed to the president of the senate, who, during the first week of the session, shall open and publish them, and declare the result, in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be declared duly elected; but if any two or more shall be highest, and equal in votes, for the same office, one of them shall be chosen by the joint vote of both houses.

Same subject.

Sec. 4. Should there be no session of the general assembly in January next after an election for any of the officers aforesaid, the returns of such election shall be made to the secretary of state, and opened, and the result declared by the governor, in such manner as may be provided by law.

Executive power

Sec. 5. The supreme executive power of this State shall be vested in the governor.

Written information, etc.

Sec. 6. He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices; and shall see that the laws are faithfully executed.

Message.

Sec. 7. He shall communicate at every session, by message, to the general assembly, the condition of the state, and recommend such measures as he shall deem expedient.

Extra sessions.

Sec. 8. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to both houses, when assembled, the purpose for which they have been convened.

Adjournment.

Sec. 9. In case of disagreement between the two houses, in respect to the time of adjournment, he shall have power to adjourn the general assembly to such time as he may think proper, but not beyond the regular meetings thereof.

Commander-in-chief of militia.

Sec. 10. He shall be commander-in-chief of the military and naval forces of the State, except when they shall be called into the service of the United States.

May grant reprieves, commutations, and pardons.

Sec. 11. He shall have power, after conviction, to grant reprieves, commutations, and pardons, for all crimes and offenses except treason and cases of impeachment, upon such conditions as he may think proper: subject, however, to such regulations as to the manner of applying for pardons, as may be prescribed by law. Upon conviction for treason, he may suspend the execution of the sentence and report the case to the general assembly, at its next meeting, when the general assembly shall either pardon, commute the sentence, direct its execution, or grant a further reprieve. He shall communicate to the general assembly, at every regular session, each case of reprieve, commutation, or pardon granted, stating the name and crime of the convict, the sentence, its date, and the date of the commutation, pardon or reprieve, with his reasons therefor.

Seal of state, and by whom kept.

Sec. 12. There shall be a seal of the State, which shall be kept by the governor, and used by him officially; and shall be called "The Great Seal of the State of Ohio."

How grants and commissions issued.

Sec. 13. All grants and commissions shall be issued in the name, and by the authority, of the State of Ohio; sealed with the great seal; signed by the governor, and countersigned by the secretary of state.

Who ineligible for governor.

Sec. 14. No member of congress, or other person holding office under the authority of this State, or of the United States, shall execute the office of governor, except as herein provided.

Who shall fill his place when vacancy occurs.

Sec. 15. In case of the death, impeachment, resignation, removal, or other disability of the governor, the powers and duties of the office, for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant governor.

Lieutenant-governor.

Sec. 16. The lieutenant governor shall be president of the senate, but shall vote only when the senate is equally divided; and in case of his absence, or impeachment, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

If vacancy shall occur while executing the office of governor, who shall act.

Sec. 17. If the lieutenant governor, while executing the office of governor, shall be impeached, displaced, resign or die, or otherwise become incapable of performing the duties of the office, the president of the senate shall act as governor, until the vacancy is filled, or the disability removed; and if the president of the senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives.

What vacancies governor to fill.

Sec. 18. Should the office of auditor, treasurer, secretary, or attorney general, become vacant, for any of the causes specified in the fifteenth section of this article, the governor shall fill the vacancy until the disability is removed, or a successor elected and qualified. Every such vacancy shall be filled by election, at the first general election that occurs more than thirty days after it shall have happened; and the person chosen shall hold the office for the full term fixed in the second section of this article.

Compensation.

Sec. 19. The officers mentioned in this article shall, at stated times, receive for their services, a compensation to be established by law, which shall neither be increased nor diminished during the period for which they shall have been elected.

Officers to report to governor, and when.

Sec. 20. The officers of the executive department, and of the public State institutions shall, at least five days preceding each regular session of the general assembly, severally report to the governor, who shall transmit such reports, with his message, to the general assembly.

ARTICLE IV.—JUDICIAL

In what courts the judicial power vested.

Section 1. The judicial power of the State shall be vested in a supreme court, circuit courts, courts of common pleas, courts of probate, justices of the peace, and such other courts, inferior to the supreme court, as the general assembly may, from time to time, establish. [*As amended October* 9, 1883.]

The supreme court.

Sec. 2. The supreme court shall, until otherwise provided by law, consist of five judges, a majority of whom competent to sit shall be necessary to form a quorum or to pronounce a decision, except as hereinafter provided. It shall have original jurisdiction in quo warranto, mandamus, habeas corpus and procedendo, and such appellate jurisdiction as may be provided by law. It shall hold at least one term in each year at the seat of government, and such other terms, there or elsewhere, as may be provided by law. The judges of the supreme court shall be elected by the electors of the State at large, for such term, not less than five years, as the general assembly may prescribe, and they shall be elected and their official term shall begin at such time as may be fixed by law. In case the general assembly shall increase the number of such judges, the first term of each of such additional judges shall be such, that in each year after their first election, an equal number of judges of the supreme court shall be elected, except in elections to fill vacancies; and whenever the number of such judges shall be increased, the general assembly may authorize such court to organize divisions thereof, not exceeding three, each division to consist of an equal number of judges; for the adjudication of cases, a majority of each division shall constitute a quorum, and such an assignment of the cases to each division may be made as such court may deem expedient, but whenever all the judges of either division hearing a case shall not concur as to the judgment to be rendered therein, or whenever a case shall involve the constitutionality of an act of the general assembly or of an act of congress, it shall be reserved to the whole court for adjudication. The judges of the supreme court in office when this amendment takes effect, shall continue to hold their offices until their successors are elected and qualified. [*As amended October* 9, 1883.]

The common pleas.

Sec. 3. The State shall be divided into nine common pleas districts, of which the county of Hamilton shall constitute one, of compact territory, and bounded by county lines; and each of said districts, consisting of three or more counties, shall be subdivided into three parts, of compact territory, bounded by

county lines, and as nearly equal in population as practicable; in each of which, one judge of the court of common pleas for said district, and residing therein, shall be elected by the electors of said subdivision. Courts of common pleas shall be held, by one or more of these judges, in every county in the district, as often as may be provided by law; and more than one court, or sitting thereof, may be held at the same time in each district.

Their jurisdiction.

Sec. 4. The jurisdiction of the courts of common pleas, and of the judges thereof, shall be fixed by law.

Sec. 5. [*Repealed October* 9, 1883.]

Circuit courts, their jurisdiction, etc.

Sec. 6. The circuit court shall have like original jurisdiction with the supreme court, and such appellate jurisdiction as may be provided by law. Such courts shall be composed of such number of judges as may be provided by law, and shall be held in each county, at least once in each year. The number of circuits, and the boundaries thereof, shall be prescribed by law. Such judges shall be elected in each circuit by the electors thereof, and at such time and for such term as may be prescribed by law, and the same number shall be elected in each circuit. Each judge shall be competent to exercise his judicial powers in any circuit. The general assembly may change, from time to time, the number of boundaries of the circuits. The circuit courts shall be the successors of the district courts, and all cases, judgments, records, and proceedings pending in said district courts, in the several counties of any district, shall be transferred to the circuit courts in the several counties, and be proceeded in as though said district courts had not been abolished, and the district courts shall continue in existence until the election and qualification of the judges of the circuit courts. [*As amended October* 9, 1883.]

Probate courts.

Sec. 7. There shall be established in each county, a probate court, which shall be a court of record, open at all times, and holden by one judge, elected by the voters of the county, who shall hold his office for the term of three years, and shall receive such compensation, payable out of the county treasury, or by fees, or both, as shall be provided by law.

Their jurisdiction.

Sec. 8. The probate court shall have jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the settlement of the accounts of executors, administrators, and guardians, and such jurisdiction in habeas corpus, the issuing of marriage licenses, and for the sale of land by executors, administrators, and guardians, and such other

jurisdiction, in any county or counties, as may be provided by law.

Justices of the peace.

Sec. 9. A competent number of justices of the peace shall be elected, by the electors, in each township in the several counties. Their term of office shall be three years, and their powers and duties shall be regulated by law.

Other judges.

Sec. 10. All judges, other than those provided for in this Constitution, shall be elected by the electors of the judicial district for which they may be created, but not for a longer term of office than five years.

Sec. 11. [*Repealed, October 9, 1883.*]

Common pleas judges.

Sec. 12. The judges of the courts of common pleas shall, while in office, reside in the district for which they are elected; and their term of office shall be for five years.

Vacancies, how filled.

Sec. 13. In case the office of any judge shall become vacant, before the expiration of the regular term for which he was elected, the vacancy shall be filled by appointment by the governor, until a successor is elected and qualified; and such successor shall be elected for the unexpired term, at the first annual election that occurs more than thirty days after the vacancy shall have happened.

Compensation of judges.

Sec. 14. The judges of the supreme court, [of the circuit court], and of the court of common pleas, shall, at stated times, receive, for their services, such compensation as may be provided by law, which shall not be diminished, or increased, during their term of office; but they shall receive no fees or perquisites, nor hold any other office of profit or trust, under the authority of this State, or the United States. All votes for either of them, for any elective office, except a judicial office, under the authority of this State, given by the general assembly, or the people, shall be void.

Ineligible to other offices.

Number of judges.

Sec. 15. The general assembly may increase, or diminish, the number of the judges of the supreme court, the number of the districts of the court of common pleas, the number of judges in any district, change the districts, or the subdivisions thereof, or establish other courts, whenever two-thirds of the members elected to each house shall concur therein; but no such change, addition, or diminution, shall vacate the office of any judge.

Clerks of courts.

Sec. 16. There shall be elected in each county, by the electors thereof, one clerk of the court of common pleas, who shall hold his office for the term of three years, and until his successor shall be elected and qualified. He shall, by virtue of his

office, be clerk of all other courts of record held therein; but, the general assembly may provide, by law, for the election of a clerk, with a like term of office, for each or any other of the courts of record, and may authorize the judge of the probate court to perform the duties of clerk for his court, under such regulations as may be directed by law. Clerks of courts shall be removable for such cause and in such manner as shall be prescribed by law.

Judges removable.

Sec. 17. Judges may be removed from office, by concurrent resolution of both houses of the general assembly, if two-thirds of the members, elected to each house, concur therein; but, no such removal shall be made, except upon complaint, the substance of which shall be entered on the journal, nor, until the party charged shall have had notice thereof, and an opportunity to be heard.

Powers and jurisdiction.

Sec. 18. The several judges of the supreme court, [or of the circuit court] of the common pleas [court], and of such other courts as may be created, shall, respectively, have and exercise such power and jurisdiction, at chambers, or otherwise, as may be directed by law.

Courts of conciliation.

Sec. 19. The general assembly may establish courts of conciliation, and prescribe their powers and duties; but such courts shall not render final judgment in any case, except upon submission, by the parties, of the matter in dispute, and their agreement to abide such judgment.

Style of process.

Sec. 20. The style of all process shall be, "The State of Ohio"; all prosecutions shall be carried on in the name, and by the authority, of the State of Ohio; and all indictments shall conclude, "against the peace and dignity of the State of Ohio."

Supreme court commission

Sec. 21. A commission, which shall consist of five members, shall be appointed by the governor, with the advice and consent of the senate, the members of which shall hold office for the term of three years from and after the first day of February, 1876, to dispose of such part of the business then on the dockets of the supreme court as shall, by arrangement between said commission and said court, be transferred to such commission; and said commission shall have like jurisdiction and power in respect to such business as are or may be vested in said court; and the members of said commission shall receive a like compensation for the time being with the judges of said court. A majority of the members of said commission shall be necessary to form a quorum or pronounce a decision, and its decision shall

be certified, entered, and enforced as the judgments of the supreme court, and at the expiration of said commission all business undisposed of shall by it be certified to the supreme court, and disposed of as if said commission had never existed. The clerk and reporter of said court shall be the clerk and reporter of said commission, and the commission shall have such other attendants, not exceeding in number those provided by law for said court, which attendants said commission may appoint and remove at its pleasure. Any vacancy occurring in said commission shall be filled by the appointment of the governor, with the advice and consent of the senate, if the senate be in session; and if the senate be not in session, by the governor; but in such last case, such appointment shall expire at the end of the next session of the general assembly. The general assembly may, on application of the supreme court, duly entered on the journal of the court and certified, provide by law, whenever two-thirds of such [each] house shall concur therein, from time to time, for the appointment in like manner of a like commission with like powers, jurisdiction, and duties: provided, that the term of any such commission shall not exceed two years, nor shall it be created oftener than once in ten years.[1]

ARTICLE V.—ELECTIVE FRANCHISE

Who may vote.

Section 1. Every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county, township, or ward, in which he resides, such time as may be provided by law, shall have the qualifications of an elector, and be entitled to vote at all elections.

By ballot.

Sec. 2. All elections shall be by ballot.

Voters, when privileged.

Sec. 3. Electors, during their attendance at elections, and in going to, and returning therefrom, shall be privileged from arrest, in all cases, except treason, felony, and breach of the peace.

Forfeiture of elective franchise.

Sec. 4. The general assembly shall have power to exclude from the privilege of voting, or of being eligible to office, any person convicted of bribery, perjury, or other infamous crime.

Persons not residents.

Sec. 5. No person in the military, naval, or marine service of the United States, shall, by being stationed in any garrison,

[1] In obedience to a joint resolution of the general assembly, March 30, 1875, the above section was submitted to the people on the 12th day of October, 1875, and adopted.

or military, or naval station, within the State, be considered a resident of this State.

Idiots or insane persons.

Sec. 6. No idiot, or insane person, shall be entitled to the privileges of an elector.[1]

[1] It has been deemed unnecessary to print here the remaining parts of the constitution, except the amendment of Section 2 of Article XI, and the amendment of Section 3, Article XIII. The remaining parts are as follows:

Article VI. *Education.*
Article VII. *Public Institutions.*
Article VIII. *Public Debt and Public Works.*
Article IX. *Militia.*
Article X. *County and Township Organisations.*
Article XI. *Apportionment.*

Single representative districts.

Sec. 2. Every county having a population equal to one-half of said ratio, shall be entitled to one representative; every county, containing said ratio, and three-fourths over, shall be entitled to two representatives; every county containing three times said ratio, shall be entitled to three representatives; and so on, requiring after the first two, an entire ratio for each additional representative. *Provided,* however, that each county shall have one representative. [*As amended November* 3, 1903.][1]

Article XII. *Finance and Taxation.*
Article XIII. *Corporations.*

Single liability.

Sec. 3. Dues from private corporations shall be secured by such means as may be prescribed by law, but in no case shall any stockholder be individually liable otherwise than for the unpaid stock owned by him or her. [*As amended November* 3, 1903.][2]

Article XIV. *Jurisprudence.*
Article XV. *Miscellaneous.*
Article XVI. *Amendments.*
Schedule.

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[1] In accordance with a joint resolution of the general assembly, passed May 6, 1902, this amendment was submitted to popular vote, and adopted November 3, 1903.

[2] A joint resolution of the general assembly, passed April 29, 1902, provided for the submission of this amendment to popular vote, and it was adopted November 3, 1903.

APPENDIX C

POLITICAL DIVISIONS OF THE STATE

91. Counties with the Dates of their Organization

Name	Organized	Area Sq. Miles	County Seat
Adams	1797	415	West Union
Allen	1820	324	Lima
Ashland	1846	371	Ashland
Ashtabula	1807	537	Jefferson
Athens	1805	370	Athens
Auglaize	1848	299	Wapakoneta
Belmont	1801	461	St. Clairville
Brown	1817	417	Georgetown
Butler	1803	315	Hamilton
Carroll	1832	346	Carrollton
Champaign	1805	409	Urbana
Clarke	1817	312	Springfield
Clermont	1800	394	Batavia
Clinton	1810	311	Wilmington
Columbiana	1803	436	New Lisbon
Coshocton	1811	479	Coshocton
Crawford	1820	332	Bucyrus
Cuyahoga	1807	303	Cleveland
Darke	1809	436	Greenville
Defiance	1845	504	Defiance
Delaware	1808	366	Delaware
Erie	1838	177	Sandusky
Fairfield	1800	423	Lancaster
Fayette	1810	335	Washington Court House
Franklin	1803	361	Columbus
Fulton	1850	321	Wauseon
Gallia	1803	346	Gallipolis
Geauga	1805	344	Chardon
Greene	1803	343	Xenia
Guernsey	1810	441	Cambridge
Hamilton	1790	400	Cincinnati

Name	Organized	Area Sq. Miles	County Seat
Hancock	1820	540	Findlay
Hardin	1820	440	Kenton
Harrison	1814	320	Cadiz
Henry	1820	430	Napoleon
Highland	1805	470	Hillsboro
Hocking	1818	400	Logan
Holmes	1824	420	Millersburg
Huron	1815	450	Norwalk
Jackson	1816	410	Jackson
Jefferson	1797	440	Steubenville
Knox	1808	540	Mt. Vernon
Lake	1840	215	Painesville
Lawrence	1816	440	Ironton
Licking	1808	680	Newark
Logan	1817	440	Bellefontaine
Lorain	1822	500	Elyria
Lucas	1835	440	Toledo
Madison	1810	470	London
Mahoning	1846	420	Youngstown
Marion	1824	430	Marion
Medina	1818	400	Medina
Meigs	1819	400	Pomeroy
Mercer	1820	470	Selina
Miami	1807	400	Troy
Monroe	1813	470	Woodsfield
Montgomery	1803	470	Dayton
Morgan	1818	400	McConnelsville
Morrow	1848	450	Mt. Gilead
Muskingum	1804	650	Zanesville
Noble	1851	400	Caldwell
Ottawa	1840	300	Port Clinton
Paulding	1820	420	Paulding
Perry	1817	410	New Lexington
Pickaway	1810	480	Circleville
Pike	1815	470	Waverly
Portage	1807	490	Ravenna
Preble	1808	440	Eaton
Putnam	1820	510	Ottawa
Richland	1813	490	Mansfield
Ross	1789	650	Chillicothe
Sandusky	1820	440	Tremont
Scioto	1803	640	Portsmouth
Seneca	1820	540	Tiffin
Shelby	1819	420	Sidney
Stark	1808	580	Canton
Summit	1840	420	Akron

Name	Organized	Area Sq. Miles	County Seat
Trumbull	1800	650	Warren
Tuscarawas	1808	520	New Philadelphia
Union	1820	420	Marysville
Van Wert	1820	400	Van Wert
Vinton	1850	402	McArthur
Warren	1803	400	Lebanon
Washington	1788	650	Marietta
Wayne	1796	540	Wooster
Williams	1820	420	Bryan
Wood	1820	620	Bowling Green
Wyandot	1845	400	Upper Sandusky

92. State Senatorial Districts

As Apportioned April 6, 1901

(See *Constitution of Ohio* (1851), Art. XI., Sec. 7.)

First District.—Hamilton county.
Second District.—Butler and Warren counties (united with the *Fourth*).
Third District.—Montgomery and Preble counties.
Fourth District.—Clermont and Brown counties.
Fifth District.—Greene, Clinton and Fayette counties (united with the *Sixth*).
Sixth District.—Ross and Highland counties.
Seventh District.—Adams, Pike, Scioto and Jackson counties.
Eighth District.—Lawrence, Gallia, Meigs and Vinton counties.
Ninth District.—Athens, Hocking and Fairfield counties (united with the *Fourteenth*).
Tenth District.—Franklin and Pickaway counties.
Eleventh District.—Clarke, Champaign and Madison counties.
Twelfth District.—Miami, Darke and Shelby counties.
Thirteenth District.—Logan, Union, Marion and Hardin counties.
Fourteenth District.—Washington and Morgan counties and a part of Noble county.
Fifteenth District.—Muskingum and Perry counties (united with the *Sixteenth*).
Sixteenth District.—Delaware and Licking counties.

Seventeenth District.—Knox and Morrow counties (united with the *Twenty-eighth*).
Eighteenth District.—Coshocton and Tuscarawas counties (united with the *Nineteenth*).
Nineteenth District.—Guernsey and Monroe counties.
Twentieth District.—Belmont and Harrison counties (united with the *Twenty-second*).
Twenty-first District.—Carroll and Stark counties.
Twenty-second District.—Jefferson and Columbiana counties.
Twenty-third District.—Trumbull and Mahoning counties.
Twenty-fourth District.—Ashtabula, Lake and Geauga counties (united with the *Twenty-sixth*).
Twenty-fifth District.—Cuyahoga county.
Twenty-sixth District.—Portage and Summit counties.
Twenty-seventh District.—Medina and Lorain counties (united with the *Twenty-ninth*)
Twenty-eighth District.—Wayne and Holmes counties.
Twenty-ninth District.—Ashland and Richland counties.
Thirtieth District.—Huron, Erie, Sandusky and Ottawa counties.
Thirty-first District.—Seneca, Crawford and Wyandot counties.
Thirty-second District.—Mercer, Auglaize, Allen, Van Wert, Paulding, Defiance and Williams counties.
Thirty-third District.—Hancock, Wood, Putnam, Fulton and Henry counties.
Thirty-fourth District.—Lucas county.[1]

93. State Representative Districts

Each of the eighty-eight counties of the State that has a sufficient population to entitle it to one or more representatives constitutes a single representative district. The apportionment in 1901, however, showed that certain counties were without the requisite population, and these were, therefore, combined, as follows: Lake and Geauga, Carroll and Harrison, Noble and Morgan, Hocking and Vinton, Ashland and Holmes, Morrow and Delaware, Madison and Fayette, and Pike and Adams. Under the constitutional amendment adopted in 1903, providing for single representative districts in all cases, these "combined

[1] In making the decennial apportionment in 1901, Lucas county was found to have a population sufficient to entitle it to be separated from the *Thirty-third District*, and was therefore designated as the *Thirty-fourth*.

districts" have been broken up. Every county now has a representative, and as many more as its population entitles it to.

94. Judicial Circuits

[See Bates, *Annotated Ohio Statutes*, 1902, Sec. 445.]

The State is divided into eight judicial circuits, each of which elects three circuit judges. The circuits are constituted as follows:

First Circuit.—Counties of Hamilton, Clermont, Butler, Warren and Clinton.

Second Circuit.—Counties of Preble, Darke, Shelby, Miami, Montgomery, Champaign, Clarke, Greene, Fayette, Madison and Franklin.

Third Circuit.—Counties of Mercer, Van Wert, Paulding, Defiance, Henry, Putnam, Allen, Auglaize, Hancock, Hardin, Logan, Union, Seneca, Marion, Wyandot and Crawford.

Fourth Circuit.—Counties of Brown, Adams, Highland, Pickaway, Ross, Pike, Scioto, Lawrence, Gallia, Jackson, Meigs, Vinton, Hocking, Athens and Washington.

Fifth Circuit.—Counties of Morrow, Richland, Ashland, Knox, Fairfield, Perry, Morgan, Muskingum, Coshocton, Holmes, Wayne, Stark, Tuscarawas and Delaware.

Sixth Circuit.—Counties of Williams, Fulton, Wood, Lucas, Ottawa, Sandusky, Erie and Huron.

Seventh Circuit.—Counties of Lake, Ashtabula, Geauga, Trumbull, Portage, Mahoning, Columbiana, Carroll, Jefferson, Harrison, Guernsey, Belmont, Noble and Monroe.

Eighth Circuit.—Counties of Cuyahoga, Summit, Medina and Lorain.

95. Common Pleas Judicial Districts

[*Const. of Ohio*, 1851, Art. IV., Sec. 3; Art. IV., Sec. 15; Art. XI., Sec. 12; Bates, *Statutes*, 1902, Sec. 481-1; *Ohio Laws*, v. 97, pp. 41, 108.]

The counties of the State are grouped into ten common pleas judicial districts. Each district that comprises three or more counties is divided into three judicial subdivisions. The voters of each subdivision elect one or more common pleas judges, and those of Hamilton county (which constitutes an entire district by itself) elect three judges. The districts and subdivisions are as follows:

First District:—

County of Hamilton.

Second District:—
First subdivision: County of Butler.
Second subdivision: Counties of Miami, Champaign, Clark, Darke and Preble.
Third subdivision: Counties of Warren, Clinton, Greene and Montgomery.

Third District:—
First subdivision: Counties of Shelby, Auglaize, Mercer and Allen.
Second subdivision: Counties of Henry and Putnam.
Third subdivision: Counties of Defiance, Fulton, Paulding, Van Wert and Williams.

Fourth District:—
First subdivision: Counties of Lucas, Ottawa, Sandusky, Huron and Erie.
Second subdivision: Counties of Summit, Medina and Lorain.
Third subdivision: County of Cuyahoga.

Fifth District:—
First subdivision: Counties of Brown and Clermont.
Second subdivision: Counties of Highland, Ross, Fayette, Pickaway and Madison.
Third subdivision: County of Franklin.

Sixth District:—
First subdivision: Counties of Licking, Knox and Delaware.
Second subdivision: Counties of Ashland, Richland and Morrow.
Third subdivision: Counties of Wayne, Holmes and Coshocton.

Seventh District:—
First subdivision: Counties of Athens, Washington and Monroe.
Second subdivision: Counties of Fairfield, Hocking, Vinton, Meigs and Gallia.
Third subdivision: Counties of Jackson, Lawrence, Pike, Scioto and Adams.

Eighth District:—
First subdivision: Counties of Muskingum, Morgan, Guernsey and Noble.
Second subdivision: County of Belmont.
Third subdivision: Counties of Tuscarawas, Harrison and Jefferson.

Ninth District:—

First subdivision: Counties of Stark, Carroll and Columbiana.

Second subdivision: Counties of Trumbull, Portage and Mahoning.

Third subdivision: Counties of Geauga, Lake and Ashtabula.

Tenth District:—

First subdivision: Counties of Wood, Hancock, Seneca and Hardin.

Second subdivision: Counties of Crawford, Marion and Wyandot.

Third subdivision: Counties of Union and Logan.

APPENDIX D

REVIEW OUTLINE OF THE STATE GOVERNMENT

96. The Central Government

I. Legislative Department. (*Ohio Const.*, Art. II.; Bates, *Rev. Stat.*, §§ 24 to 46.)

The General Assembly.

1. *Senate,*—thirty-eight members elected from senatorial districts for two years.
2. *House of Representatives,*—one hundred and nine members elected from representative districts for two years. Each house elects its own officers, except that the lieutenant governor is president of the Senate.

II. Executive Department. (*Ohio Const.*, Art. III.; Bates, *Rev. Stat.*, §§ 80 to 218.)

1. *Executive Officers.*
   (1). Governor,—elected for two years.
   (2). Lieutenant Governor,—elected for two years.
   (3). Secretary of State,—elected for two years.
   (4). Auditor of State,—elected for four years.
   (5). Treasurer of State,—elected for two years.
   (6). Attorney General,—elected for two years.
2. *Administrative Officers, Boards and Commissions.*[1]

General

(1). State Supervisor and Inspector of Elections,—secretary of state appoints four deputy State supervisors for each county for two years. (97 *Ohio Laws*, 218.)

(2). Voting Machines Commission,—consists of governor, secretary of state and attorney general. (Bates, *Rev. Stat.*, § (2966-55).)

[1]These are classified according to the subjects they deal with. The classification is made for convenience, and does not represent any real administrative organization among the officers and boards.

(3). Bureau of Inspection and Supervision of Public Offices,—auditor of state is chief inspector and supervisor of public offices, and appoints three deputies. (95 *Ohio Laws,* 511.)

(3a). Board of Deposit,—treasurer of state, auditor of state and attorney general. (97 *Ohio Laws,* 535.)

(4). Inspector of Public Institutions,—appointed by State auditor, term indefinite. (95 *Ohio Laws,* 246.)

(5). Ohio State Board of Uniform State Laws,—three members appointed by the governor for three years. (95 *Ohio Laws,* 108.)

(6). Commission on Fees of County Officials,—state auditor, secretary of state and attorney general. (Bates, *Rev. Stat.,* § (1298-3).)

(7). Commissioners of Sinking Fund,—state auditor, secretary of state and attorney general. (*Const. 1851,* Art. VIII., § 8.)

(8). State Board of Appraisers and Assessors,—state auditor, treasurer of state, attorney general and secretary of state. (97 *Ohio Laws,* 326.)

(9). Board of Appraisers of Railroad Property,—made up of the auditors of the several counties. (Bates, *Rev. Stat.,* § 2770; 97 *Ohio Laws,* 572.)

(10). Annual State Board of Equalization for Banks,—governor, state auditor and attorney general. (Bates, *Rev. Stat.,* § 2808.)

(11). Annual State Board of Equalization for Railroads,—state auditor, state treasurer, commissioner of railroads and attorney general. (Bates, *Rev. Stat.,* § 2811; 97 *Ohio Laws,* 575.)

(12). Decennial State Board of Equalization,—as many members as compose State senate, elected by senatorial districts. (Bates, *Rev. Stat.,* § 2818.)

PUBLIC SAFETY

(13). State Board of Health,—four members appointed by governor for four years. (Bates, *Rev. Stat.,* § 4403.)

(14). State Board of Medical Examiners,—seven members appointed by governor for seven years. (Bates, *Rev. Stat.*, § 4403.)

(15). Osteopathic Examining Committee,—three members appointed by State Board of Medical Examiners for three years. (95 *Ohio Laws*, 213.)

(16). State Board of Dental Examiners,—five members appointed by governor for three years. (95 *Ohio Laws*, 313, 523.)

(17). Ohio Board of Pharmacy,—five members appointed by governor for five years. (Bates, *Rev. Stat.*, § 4406.)

(18). State Board of Veterinary Examiners,—seven members, five appointed by governor for six years, the secretary of the State Board of Health and the secretary of the State Board of Agriculture being ex-officio members. (Bates, *Rev. Stat.*, §(4412-4).)

(19). Ohio State Sanatorium,—board of five members appointed by governor for five years.

(20). State Board of Embalming Examiners,—five members, three appointed by governor, the president and the secretary of the State Board of Health being ex-officio members. (95 *Ohio Laws*, 333.)

(21). Ohio Dairy and Food Commissioner—elected for two years. (Bates, *Rev. Stat.*, § (409-7).)

(22). State Fire Marshal,—appointed by governor for two years. He in turn appoints two deputy fire marshals. (Bates, *Rev. Stat.*, § (409-50).)

PUBLIC EDUCATION

(23). State Commissioner of Common Schools,—elected for three years. (Bates, *Rev. Stat.*, § 354.)

(24). State School Book Board,—governor, secretary of state and State commissioner of common schools. (Bates, *Rev. Stat.*, § (4019-1).)

(25). Board of Trustees of Ohio University,—twenty-one members, nineteen of whom are appointed by governor, who together with the president of the university, is an ex-officio member. (*University Catalogue.*)

(26). Board of Trustees of Miami University,—twenty-seven members, divided into three classes of nine each, a class being appointed every three years by the governor for a nine years' term. (*University Catalogue.*)

(27). Board of Trustees of Ohio State University,—seven members appointed by the governor for seven years. (Bates, *Rev. Stat.*, § (4105-37).)

(28). Board of Trustees of Wilberforce University,—nine members, five appointed by governor and three chosen by the board itself for four and three years respectively, the president of the university being an ex-officio member. (Bates, *Rev. Stat.*, §§ (4105-55), (4105-56).)

(29). State Normal School Commission,—four members appointed for indefinite time by governor. (95 *Ohio Laws*, 45.)

(30). Board of Library Commissioners,—three members appointed by governor for six years. (Bates, *Rev. Stat.*, § 342.)

CHARITIES AND CORRECTIONS

(31). Board of State Charities,—six members appointed by the governor for three years, the governor being an ex-officio member. (Bates, *Rev. Stat.*, § 655.)

(32). Board of Trustees of Soldiers and Sailors' Home,—five members appointed by governor for five years. (Bates, *Rev. Stat.*, § 674-4.)

(33). Board of Managers of the Home of the Ohio Soldiers, Sailors, Marines, their Wives, Mothers and Widows; and Army Nurses,—five members appointed by the governor for five years. (97 *Ohio Laws*, 70.)

(34). Board of Trustees of Soldiers' and Sailors' Orphans' Home,—five members appointed by governor for five years. (Bates, *Rev. Stat.*, § 635.)

(35). Board of Lady Visitors of Soldiers' and Sailors' Orphans' Home,—five members appointed by governor for five years. (Bates, *Rev. Stat.*, § 675*a*.)

(36). Board of Trustees for Institution for Education of Blind,—five members, appointed by governor for five years. (Bates, *Rev. Stat.*, § 635.)

(37). Board of Trustees for Institution for Education of Deaf and Dumb,—five members appointed by governor for five years. (Bates, *Rev. Stat.*, § 635.)

(38). Board of Trustees of Cleveland State Hospital,—five members appointed by governor for five years. (Bates, *Rev. Stat.*, § 635.)

(39). Board of Trustees of Columbus State Hospital, —five members appointed by governor for five years. (Bates, *Rev. Stat.*, § 635.)

(40). Board of Trustees of Ohio Hospital for Epileptics,—five members appointed by governor for five years. (Bates, *Rev. Stat.*, § 635.)

(41). Board of Trustees of Athens State Hospital,—five members appointed by governor for five years. (Bates, *Rev. Stat.*, § 635.)

(42). Board of Trustees of Toledo State Hospital,—five members appointed by governor for five years. (Bates, *Rev. Stat.*, § 635.)

(43). Board of Trustees of Massillon State Hospital, —five members appointed by governor for five years. (Bates, *Rev. Stat.*, § 635.)

(44). Board of Trustees of Institution for Feebleminded Youth,—five members appointed by governor for five years. (Bates, *Rev. Stat.*, § 635.)

(45). Board of Trustees of Dayton State Hospital,—five members appointed by governor for five years. (Bates, *Rev. Stat.*, § 635.)

(46). Directors of Longview State Hospital,—four members, two appointed by governor, one by judges of court of common pleas of Hamilton county, and one by judge of probate court of same county, all for term of five years. (Bates, *Rev. Stat.*, § 723.)

(47). Board of Trustees of Boys' Industrial School,—five members appointed by governor for five years. (Bates, *Rev. Stat.*, § 635.)

(48). Board of Trustees of Girls' Industrial Home,—five members appointed by governor for five years. (Bates, *Rev. Stat.*, § 635.)

(49). Committee of Visitors for Girls' Industrial

Home,—three ladies, appointed by governor for three years. (Bates, *Rev. Stat.*, § 766.)

(50). Board of Managers of Ohio State Reformatory,—six members appointed by governor for six years. (Bates, *Rev. Stat.*, § (7388-17).)

(51). Board of Managers of Ohio Penitentiary,—five members, appointed by the governor for five years. (Bates, *Rev. Stat.*, § (7388-1).)

(52). Ohio State Board of Pardons,—four members appointed by the governor for four years. (Bates, *Rev. Stat.*, § (409-42).)

LANDS

(53). Land Agent of the State,—duties performed by state auditor. (Bates, *Rev. Stat.*, § (3107-57).)

(54). Fish and Game Commission,—five members appappointed by governor for five years. They in turn appoint a chief warden and deputy and special wardens for two years. (Bates, *Rev. Stat.*, § 405; 97 *Ohio Laws*, 463, 464.)

(55). Board of Directors of State Forestry Bureau,—three members appointed by governor for six years. (Bates, *Rev. Stat.*, § (409-15).)

(56). State Geologist,—appointed by governor for three years. (Bates, *Rev. Stat.*, § (409-20).)

(57). Joint Board for Control and Management of Public Lakes, Reservoirs and State Lands,—made up of board of public works, chief engineer of public works and Ohio canal commissioners. (95 *Ohio Laws*, 277.)

PUBLIC BUILDINGS

(58). State Building Commission,—governor and attorney general, ex-officio, together with three other members appointed by the governor. (Bates, *Rev. Stat.*, § (106-3).)

AGRICULTURE, LABOR, AND DOMESTIC COMMERCE

(59). State Board of Agriculture,—five members elected by the delegates to the annual meeting for five years. (Bates, *Rev. Stat.*, § 3692; 95 *Ohio Laws*, 243.)

(60). Crop and Stock Service,—under supervision of secretary of agriculture, who appoints from 900 to 1200 volunteer crop correspondents throughout the State. (Bates, *Rev. Stat.*, § (409-35).)

(61). Board of Control of the State Agricultural Experiment Station,—five members appointed by governor for five years. (95 *Ohio Laws*, 11.)

(62). Board of Live Stock Commissioners,—three members appointed by governor for six years. (Bates, *Rev. Stat.*, § (4211-9).)

(63). Commissioner of Labor Statistics,—appointed by governor for two years. (Bates, *Rev. Stat.*, § 307.)

(64). Chief Inspector of Workshops and Factories,—appointed by governor for four years, who in turn appoints thirteen district inspectors for three years. (97 *Ohio Laws*, 530.)

(65). Chief Inspector of Mines,—appointed by governor for four years, and in turn appoints seven district inspectors for three years. (Bates, *Rev. Stat.*, §§ 290, 290*a*.)

(66). State Inspectors of Oils,—two persons appointed by governor for two years. (Bates, *Rev. Stat.*, 395.)

(67). Chief Examiner of Steam Engineers,—appointed by governor for three years. He appoints eight district examiners for same term. (95 *Ohio Laws*, 48.)

(68). State Board of Arbitration,—three members appointed by governor for three years, one to be an employer, one an employe, and the third recommended by other two. (Bates, *Rev. Stat.*, § (4364-90).)

(69). State Sealer of Weights and Measures,—professor of physics of Ohio State University is ex-officio State sealer. (Bates, *Rev. Stat.*, § (142-1).)

(70). State Highway Commissioner,—appointed by governor for four years. (97 *Ohio Laws*, 523.)

CANALS AND NAVIGATION

(71). Board of Public Works,—three members elected for three years. (*Const.*, Art. VIII., § 12.)

(72). Chief Engineer of Public Works,—appointed by governor for two years. (Bates, *Rev. Stat.*, § (218-4).)

(73). Ohio Canal Commissioners,—two appointed by governor for two years. (Bates, *Rev. Stat.*, §§ (218-221), (218-236*b*); 97 *Ohio Laws*, 184.)

CONTROL OF CORPORATIONS

(74). Commissioner of Railroads and Telegraphs,—appointed by governor for two years. (Bates, *Rev. Stat.*, § 245.)

(75). Superintendent of Insurance,—appointed by governor for three years. (Bates, *Rev. Stat.*, § 266.)

(76). Inspector of Building and Loan Associations,—superintendent of insurance is inspector ex-officio and appoints a deputy inspector for an indefinite term. (Bates, *Rev. Stat.*, § 3836-9.)

MISCELLANEOUS

(77). Supervisor of Public Printing,—appointed by governor for two years. (Bates, *Rev. Stat.*, § 311.)

(78). Commissioner of Soldiers' Claims,—appointed by governor for two years. (Bates, *Rev. Stat.*, § (3107-11*b*).)

3. ***Miscellaneous State Societies.***

(1). Ohio Humane Society,—with board of three trustees elected by the society, which has the right to appoint agents in various parts of the State. (Bates, *Rev. Stat.*, § 3714.)

(2). Ohio State Archeological and Historical Society,—with board of twenty-one trustees, fifteen of whom are elected by the Society, five each year for a three year term; the other six being appointed by the governor, two each year for a three year term. (It receives appropriations from the State, and publishes the *Ohio Archeo-*

logical and Historical Quarterly. See constitution in *List of Publications* published by the Society, 1903.)

(3). Ohio State Horticultural Society.—It elects its own officers. Its affairs are in charge of an executive committee, consisting of the president, secretary and three other elected members. It has an ad interim committee, made up of the officers and ten other members, to take notes on matters of interest to horticulturists in various parts of the State. It receives an annual appropriation of $1000 from the State and publishes an *Annual Report.*

(4) Ohio Dairymen's Association.—It chooses its own officers and a board of seven directors annually. It is divided into sections for the discussion of several classes of subjects at its annual meeting. It receives $1000 a year from the State and publishes an *Annual Report.*

III. Judicial Department.

1. *Court for the Trial of Impeachments,*—consisting of the senate; conviction requires the concurrence of two-thirds of the senators. (*Ohio Const.,* Art. II., § 23.)
2. *Supreme Court,*—consisting of six judges, elected by popular vote for six years. (*Ohio Const.,* Art. IV., § 2; Bates, *Rev. Stat.,* § 410*a*.)

97. The Local Governments

A. The Government of the County

I. Legislative Department. (Bates, *Rev. Stat.,* § 839.)

County Commissioners,—three members elected for three years.

II. Executive Department. (Bates, *Rev. Stat.,* §§ 994 to 1282*c*, 4069, (633-15).)

1. *Sheriff,*—elected for two years.
2. *Auditor,*—elected for three years.
3. *Treasurer,*—elected for two years.
4. *Recorder,*—elected for three years.
5. *Clerk of Courts,*—elected for three years.
6. *Prosecuting Attorney,*—elected for three years.
7. *Surveyor,*—elected for three years.

8. *Coroner,*—elected for two years.
9. *Infirmary Directors,*—three, elected for three years.
10. *Board of School Examiners,*—three, appointed by probate judge for three years.
11. *County Visitors,*—six, three of whom are women, appointed by probate judge for three years.

Hamilton County has certain additional officers, as follows:

Board of Control,—four members, elected for three years.

Solicitor,—elected for three years.

III. Judicial Department.

1. *Probate Court,*—presided over by one judge elected for three years. In Cuyahoga and Hamilton counties there is also a *Court of Insolvency,* consisting of one judge elected for five years. (*Ohio Const.,* Art. IV., § 7.)
2. *Court of Common Pleas,*—held in each county, which forms part of a common pleas district and helps elect the common pleas judges of the district for five years. Hamilton county, however, forms a district by itself and elects three judges. The court's jurisdiction is both civil and criminal and both original and appellate. The *Superior Court of Cincinnati* is supplementary to the common pleas court of Hamilton county and consists of three judges elected for five years. (*Ohio Const.,* Art. IV., § 3.)
3. *Circuit Court,*—held in county, which forms part of a judicial circuit and helps elect the circuit judges for six years. The circuit court possesses civil and criminal jurisdiction and likewise original and appellate jurisdiction. It has like original jurisdiction (within its own circuit) with the supreme court to try actions in *quo warranto, mandamus, habeas corpus,* and *procedendo.* (*Ohio Const.,* Art. 4, § 6.)

B. The Government of the Township

I. Legislative Department. (Bates, *Rev. Stat.,* § 1448.)

1. *Trustees,*—three members, elected for three years.

II. Executive Department. (Bates, *Rev. Stat.,* §§ 1448, 1501*ff.*)

1. *Clerk,*—elected for two years.
2. *Treasurer,*—elected for two years.

3. *Assessor,*—one for each township or for each election precinct of the township, elected for one year.
4. *Supervisors of Roads,*—one for each road district of the township.
5. *Constables,*—number fixed by the trustees, elected for three years.
6. *Board of Education,*—five members elected at large for four years.
7. *Board of Health.*—The Trustees may themselves serve as a board, or appoint a board or a single officer. Otherwise, the State board of health appoints.

III. Judicial Department. (*Ohio Const.*, Art. IV., § 9.)

1. *Justices of the Peace,*—number fixed by the common pleas court for new townships, and changed when necessary by the probate judge; elected for three years.

C. The Government of the Village

[See *Municipal Code*, 1902, Secs. 193-210.]

I. Legislative Department.

1. *Council,*—six members elected at large for two years.

II. Executive Department.

1. *Mayor,*—elected for two years.
2. *Clerk,*—elected for two years.
3. *Treasurer,*—elected for two years.
4. *Street Commissioner,*—appointed by the mayor and confirmed by the council, for two years.
5. *Marshal,*—elected for two years. Deputy marshals, policemen, night watchmen and special policemen,—number fixed by the council, appointed by the mayor with the consent of the council.
6. *Fire Chief,*—appointed by the mayor for two years. Firemen,—number fixed by the council and appointed by the consent of the council for one year.
7. *Board of Trustees of Public Affairs,*—to be created by the council when necessary; three members elected for two years.
8. *Board of Education,*—five members elected at large for four years.
9. *Board of Health,*—five members appointed by the mayor and the council, unless the council appoint a single health officer to be approved by the State board.

III. Judicial Department.

1. *Mayor's Court,*—the mayor sitting as judge. In some villages the council chooses a police justice in place of the mayor.

D. The Government of the City

[See *The Municipal Code*, 1902, Secs. 116-192.]

I. Legislative Department.

Council,—not less than seven members, four elected by wards and three by the city at large; when the city's population has reached 25,000, two additional members elected by wards, and, for every 15,000 thereafter, one additional member similarly elected. Whenever the total number of members is fifteen or more, one member of every five must be elected by the city at large and the remainder by wards. Term, two years.

II. Executive Department.

1. *Mayor,*—elected for two years.
2. *President of Council,*—elected for two years.
3. *Auditor,*—elected for three years.
4. *Treasurer,*—elected for two years.
5. *Solicitor,*—elected for two years.
6. *Department of Public Service,*—three or five members, as determined by the council; elected for two years.
7. *Department of Public Safety,*—two or four members, as determined by the council; appointed by the mayor with the consent of two-thirds of the council for four years.
   (*a*). Chief of police, patrolmen, etc., appointed by the mayor under regulations fixed by the department of public safety in accordance with merit system described in the *Municipal Code.*
   (*b*). Chief of the fire department, firemen, etc., appointed by the mayor under regulations fixed by the department of public safety in accordance with merit system described in the *Municipal Code.*
8. *Board of Health,*—five members appointed by the mayor and confirmed by the council, unless the council authorize the board of public service to act.
9. *Sinking Fund and Tax Commission,*—appointed by the mayor for four years.

10. *Library Board,*—six members appointed by the mayor for four years.
11. *Board of Education,*—in city school districts of less than 50,000 persons, three to seven members elected by the district at large; in cities of greater population, two to seven members elected at large, and two to thirty members elected by subdistricts, one by each subdistrict. Term, four years.
12. *Board of School Examiners,*—three, appointed by board of education for three years.

III. Judicial Department.

1. *Mayor's Court,*—exists in many smaller cities, the mayor acting as judge. He tries cases arising under the city ordinances, and has the jurisdiction of a justice of the peace to try misdemeanors and felonies committed within the county. The larger cities have a *Police Court,* presided over by one or more police judges, who are elected for three years. In cities not otherwise provided for, the council may appoint a *police justice,* who has the same judicial authority as the mayor.

99. Growth of Cities—1890-1900

Cities	1900	1890	Increase	Per Cent. Increase
Cleveland	381768	261353	120415	46.1
Cincinnati	325902	296908	28994	9.8
Toledo	131822	81434	50388	61.9
Columbus	125560	88150	37410	42.4
Dayton	85333	61220	24113	39.4
Youngstown	44885	33220	11665	35.1
Akron	42728	27601	15127	54.8
Springfield	38253	31895	6358	19.9
Canton	30667	26189	4478	17.1
Hamilton	23914	17565	6349	36.1
Zanesville	23538	21009	2529	12.0
Lima	21723	15981	5742	35.8
Sandusky	19664	18471	1193	6.4
Newark	18157	14270	3887	27.2
Portsmouth	17870	12394	5476	44.1
Mansfield	17640	13473	4167	30.9
Finlay	17613	18553	[1]940	[1]5.0
East Liverpool	16485	10956	5529	50.4
Lorain	16028	4863	11165	229.5
Steubenville	14349	13394	955	7.1
Marietta	13348	8273	5075	61.3
Chillicothe	12976	11288	1688	14.0
Ashtabula	12949	8338	4611	55.2
Piqua	12172	9090	3082	33.9
Massilon	11944	10092	1852	18.3
Ironton	11868	10939	929	8.4
Marion	11862	8327	3535	42.4
Tiffin	10989	10801	188	1.7
Bellaire	9912	9934	[1]22	[1].22
Middletown	9215	7681	1534	19.9
Lancaster	8991	7555	1436	19.0
Alliance	8974	7606	1368	17.9
Elyria	8791	5611	3180	56.6
Xenia	8696	7301	1395	19.1
Warren	8529	5973	2556	42.7
Tremont	8439	7141	1298	18.1
Cambridge	8241	4361	3880	88.9

[1] Loss.

Counties	1800	1810	1820	1830	1840	1850	1860	1870	1880	1890	1900
Defiance	..	..	..	..	..	6966	11886	15719	22515	25769	26387
Delaware	..	2000	7639	11504	22060	21817	23902	25175	27381	27189	26401
Erie	..	..	..	..	12599	18568	24474	28188	32640	35462	37650
Fairfield	..	11361	16633	24786	31924	30264	30538	31138	34284	33939	34259
Fayette	..	1854	6316	8182	10984	12726	15935	17170	20364	22309	21725
Franklin	..	3486	10292	14741	25049	42909	50361	63019	86797	124087	164460
Fulton	..	..	..	..	..	7781	14043	17789	21053	22023	22801
Gallia	..	4181	7098	9733	13444	17063	22043	25545	28124	27005	27918
Geauga	..	2917	7791	15813	16297	17827	15817	14190	14251	13489	14744
Greene	..	5870	10529	14801	17528	21946	26197	28038	31349	29820	31613
Guernsey	..	3051	9292	18036	27748	30438	24474	23838	27197	28645	34425
Hamilton	14692	15258	31764	52317	80145	156844	216410	260370	313374	374573	409479
Hancock	..	..	..	813	9986	16751	22886	23847	27784	42563	41993
Hardin	..	..	..	210	4598	8251	13570	18714	27023	28939	31187
Harrison	..	..	14345	20916	20199	20157	19110	18682	20456	20830	20486
Henry	..	..	..	262	2503	3434	8901	14028	20585	25080	27282
Highland	..	5766	12308	16345	22269	25781	27773	29133	30281	29048	30982
Hocking	.	..	2130	4008	9741	14119	17057	17925	21126	22658	24398
Holmes	..	..	..	9135	18088	20452	20589	18177	20776	21139	19511
Huron	..	..	6675	13341	23933	26203	29616	28532	31609	31949	32330
Jackson	..	..	3746	5941	9744	12719	17941	21759	23686	28408	34248
Jefferson	8766	17260	18531	22489	25030	29133	26115	29188	33018	39415	44357
Knox	..	2149	8326	17085	29579	28872	27735	26333	27431	27600	27768
Lake	..	..	..	..	13719	14654	15576	15935	16326	18235	21680
Lawrence	..	..	3499	5367	9738	15246	23249	31380	39068	39556	39534

Counties	1800	1810	1820	1830	1840	1850	1860	1870	1880	1890	1900
Licking . .	..	3852	11861	20869	35096	38846	37011	35756	40450	43279	47070
Logan . .	..	..	3181	6440	14015	19162	20996	23028	26267	27386	30420
Lorain . .	..	..	..	5696	18467	26086	29744	30308	35526	40295	54857
Lucas . . .	..	..	..	..	9382	12363	25831	46722	67377	102296	153559
Madison . .	..	1603	4799	6190	9025	10015	13015	15633	20109	20057	20590
Mahoning .	..	..	..	..	..	23735	25894	31001	42871	55979	70134
Marion . .	..	..	..	6551	14765	12618	15490	16184	20565	24727	28678
Medina . .	..	..	3082	7560	18352	24411	22517	20092	21453	21742	21958
Meigs . .	..	..	4480	6158	11452	17971	26534	31465	32325	29813	28620
Mercer . .	..	..	..	1110	8277	7712	14104	17254	21803	27220	28021
Miami . .	..	3941	8851	12807	19688	24999	29959	32740	36158	39754	43105
Monroe . .	..	..	4645	8768	18521	28351	25741	25779	26496	25175	27031
Montgomery	..	7722	15999	24362	31938	38218	52230	64006	78550	100852	130146
Morgan . .	..	.	5297	11800	20852	28585	22119	20363	20074	19143	17905
Morrow . .	..	..	..	..	..	20280	20445	18583	19072	18120	17879
Muskingum	..	10036	17824	29334	38749	45049	44416	44886	49774	51210	53185
Noble . .	..	..	..	..	.	..	20751	19949	21138	20753	19466
Ottawa . .	..	..	..	..	2248	3308	7016	13364	19762	21974	22213
Paulding . .	..	..	..	161	1034	1766	4945	8544	13485	25932	27528
Perry . . .	..	..	8429	13970	19344	20775	19678	18453	28218	31151	31841
Pickaway .	..	7124	13149	16001	19725	21006	23469	24875	27415	26959	27016
Pike . . .	..	..	4253	6024	7626	10963	13643	15447	17927	17482	18172
Portage . .	..	2995	10095	18820	22965	24419	24208	24584	27500	27868	29246
Preble . .	..	3304	10237	16291	19482	21736	21820	21809	24533	23421	23713
Putnam . .	..	..	..	230	5189	7221	12808	17081	23713	30188	32525

Counties	1800	1810	1820	1830	1840	1850	1860	1870	1880	1890	1900
Richland	..	..	9169	24006	44532	30879	31158	32516	36306	38072	44289
Ross	8540	15514	20619	24068	27460	32074	35071	37097	40307	39454	40940
Sandusky	..	..	852	2851	10182	14305	21429	25503	32057	30617	34311
Scioto	..	3399	5750	8740	11192	18428	24297	29302	33511	35377	40981
Seneca	..	..	..	5159	18128	27104	30868	30827	36947	40869	41163
Shelby	..	..	2106	3671	12154	13958	17493	20748	24137	24707	24625
Stark	..	2734	12406	26588	34603	39878	42978	52508	64031	84170	94747
Summit	..	..	..	..	22560	27485	27344	34674	43788	54089	71715
Trumbull	1302	8671	15546	26153	38107	30490	30656	38659	44880	42373	46591
Tuscarawas	..	3045	8328	14298	25631	31761	32463	33840	40198	46618	53751
Union	..	..	1996	3192	8422	12104	16507	18730	22375	22860	22342
Van Wert	..	..	..	49	1577	4793	10238	15823	23028	29671	30394
Vinton	..	..	..	..	..	9353	13631	15027	17223	16045	15330
Warren	..	9925	17837	21460	23141	25560	26902	26689	28392	25468	25584
Washington	5427	5991	10425	11731	20823	29540	36268	40609	43244	42380	48245
Wayne	3206	..	11933	23333	35805	32981	32483	35116	40076	39005	37870
Williams	..	..	..	387	4465	8018	16633	20991	23821	24897	24953
Wood	..	..	733	1102	5357	9157	17886	24596	34022	44392	51555
Wyandot	..	..	..	..	..	11194	15596	18553	22395	21722	21125
Totals	45365	230760	581434	937903	1519467	1980329	2339511	2665260	3198062	3672316	4157545

99. Growth of Cities—1890-1900

Cities	1900	1890	Increase	Per Cent. Increase
Cleveland	381768	261353	120415	46.1
Cincinnati	325902	296908	28994	9.8
Toledo	131822	81434	50388	61.9
Columbus	125560	88150	37410	42.4
Dayton	85333	61220	24113	39.4
Youngstown	44885	33220	11665	35.1
Akron	42728	27601	15127	54.8
Springfield	38253	31895	6358	19.9
Canton	30667	26189	4478	17.1
Hamilton	23914	17565	6349	36.1
Zanesville	23538	21009	2529	12.0
Lima	21723	15981	5742	35.8
Sandusky	19664	18471	1193	6.4
Newark	18157	14270	3887	27.2
Portsmouth	17870	12394	5476	44.1
Mansfield	17640	13473	4167	30.9
Finlay	17613	18553	[1]940	[1]5.0
East Liverpool	16485	10956	5529	50.4
Lorain	16028	4863	11165	229.5
Steubenville	14349	13394	955	7.1
Marietta	13348	8273	5075	61.3
Chillicothe	12976	11288	1688	14.0
Ashtabula	12949	8338	4611	55.2
Piqua	12172	9090	3082	33.9
Massilon	11944	10092	1852	18.3
Ironton	11868	10939	929	8.4
Marion	11862	8327	3535	42.4
Tiffin	10989	10801	188	1.7
Bellaire	9912	9934	[1]22	[1].22
Middletown	9215	7681	1534	19.9
Lancaster	8991	7555	1436	19.0
Alliance	8974	7606	1368	17.9
Elyria	8791	5611	3180	56.6
Xenia	8696	7301	1395	19.1
Warren	8529	5973	2556	42.7
Tremont	8439	7141	1298	18.1
Cambridge	8241	4361	3880	88.9

[1]Loss.

99. Growth of Cities—1890-1900.—*Continued*

Cities	1900	1890	Increase	Per Cent. Increase
Wellston	8045	4377	3668	83.8
Delaware	7940	8224	284[1]	3.4[1]
Martins Ferry	7760	6250	1510	24.1
Fostoria	7730	7070	660	9.3
Salem	7582	5780	1802	31.1
Defiance	7579	7694	115[1]	1.4[1]
Nilles	7468	4289	3179	74.1
Galion	7282	6326	956	15.1
Conneaut	7133	3241	3892	120.0
Norwalk	7074	7195	121[1]	1.6[1]
Circleville	6991	6556	435	6.6
Kenton	6852	5557	1293	23.2
Urbana	6808	6510	298	4.5
Bellefontaine	6649	4245	2404	56.6
Mt. Vernon	6633	..	..	..
Bucyrus	6560	5974	586	9.8
Norwood	6480	..	..	..
Coshocton	6473	3672	2801	76.2
Van Wert	6422	5512	910	16.5
New Philadelphia	6213	4456	1757	39.6
Wellsville	6146	5247	899	17.1
Wooster	6063	5901	162	2.7
Newburg	5909	..	..	..
Troy	5881	4494	1387	30.8
Washington Court House	5751	5742	9	.15
Sidney	5688	4850	838	17.2
Glenville	5588	..	..	..
London	5511	3313	2198	66.3
Greenville	5501	5473	28	.5
Gallipolis	5432	4498	934	20.7
Canal Dover	5422	3470	1952	56.2
Nelsonville	5421	4558	863	18.9
St. Mary's	5359	3000	2359	78.6
Bowling Green	5067	3467	1600	46.1
Painesville	5024	4755	269	5.7
Totals	1,817,232	1,370,916		
Percentage of City Population	43.71%	37.32%		

[1]Loss.

100. Villages Having from 2000 to 5000 Population

	1900
Ada	2576
Ashland	4087
Athens	3066
Barberton	4354
Barnesville	3721
Bellevue	4101
Berea	2510
Bridgeport	3963
Bryan	3131
Carthage	2559
Celina	2815
Chicago Junction	2348
Clyde	2515
Collinwood	3639
Crestline	3282
Cuyahoga Falls	3186
Delphos	4517
Dennison	3763
East Cleveland	2757
East Palestine	2493
Eaton	3155
Elmwood Place	2532
Fairport	2073
Franklin	2724
Geneva	2342
Girard	2630
Glouster	2155
Greenfield	3979
Hicksville	2520
Hillsboro	4535
Jackson	4672
Kent	4541
Lakewood	3355
Lebanon	2867
Leetonia	2744
Lisbon	3330
Lockland	2695
Logan	3480
Madisonville	3140
Manchester	2003
Marysville	3048
Medina	2232
Miamisburg	3941
Middleport	2799
Mingo Junction	2954
Napoleon	3639
Nowcomerstown	2659
New Straitsville	2302
North Baltimore	3561
Oberlin	4082
Ottawa	2322
Paulding	2080
Pomeroy	4639
Port Clinton	2450
Ravenna	4003
Reading	3076
Ripley	2248
Rockport	2030
St. Bernard	3384
Salineville	2353
Shawnee	2966
Shelby	4685
South Brooklyn	2343
Toronto	3526
Uhrichsville	4582
Upper Sandusky	3355
Wapakoneta	3915
Wauseon	2148
Wilmington	3613

101. Nativity of the Population of Ohio in 1900

(*Twelfth Census of the U. S.*, Vol. I, Population, pp. clxxiii, clxxiv.)

Germany	204,160	Russia	8,203
Ireland	55,018	France	5,604
England	44,745	Sweden	3,951
Canada	22,726	Holland	1,719
Poland	16,822	Denmark	1,468
Hungary	16,463	Norway	639
Bohemia	15,131	Mexico	53
Switzerland	12,007	Other countries	6,280
Austria	11,575		
Wales	11,481	Total foreign born	458,734
Italy	11,321	Native born	3,698,811
Scotland	9,327		

102. Presidential Vote of Ohio[1]

The present Democratic party claims descent from the earlier Republican-Democratic party. The change of name appears to have taken place between 1805 and 1825.

1804

Thomas Jefferson, R.-P.	2,593
Charles C. Pinckney, Fed.	364

1808

James Madison, R.-D.	——
Charles C. Pinckney, Fed.	——
George Clinton, R.-D.	——

1812

James Madison, R.-D.	7,420
De Witt Clinton, Fed.	3,301

1816

James Monroe, R.-D.	3,326
Rufus King, Fed.	593

1820

James Monroe, R.-D.	7,164
John Q. Adams, R.-D.	2,215

1824

Andrew Jackson, Dem.	18,489
John Q. Adams, Dem.	12,280
Wm. H. Crawford, Dem.	——
Henry Clay, Dem.	19,255

1828

Andrew Jackson, Dem.	67,597
John Q. Adams, Nat. Rep.	63,396

1832

Andrew Jackson, Dem.	81,246
Henry Clay, Nat. Rep.	76,539
William Wirt, Anti-Mason	509

1836

Martin Van Buren, Dem.	96,238
Wm. H. Harrison, Whig	104,958
Hugh L. White	——
Daniel Webster	——
W. P. Mangum	——

1840

Wm. H. Harrison, Whig	148,157
Martin Van Buren, Dem.	124,782
James G. Birney, Liberty	903

1844

James K. Polk, Dem.	149,061
Henry Clay, Whig	155,113
James G. Birney, Liberty	8,050

1848

Zachary Taylor, Whig	138,359
Lewis Cass, Dem.	154,773
Martin Van Buren, Free Soil	35,347

1852

Franklin Pierce, Dem.	168,933
Winfield Scott, Whig	152,523
John P. Hale, Free Soil	31,732

1856

James Buchanan, Dem.	170,874
John C. Fremont, Rep.	187,497
Millard Fillmore, American	28,126

1860

Abraham Lincoln, Rep.	221,809
Stephen A. Douglas, Northern Dem.	187,421
John Bell, Const. Union	12,193
John C. Breckenridge, Southern Dem.	11,303
Gerritt Smith, Abol.	136

1864

Abraham Lincoln, Rep.	265,654
George B. McClellan, Dem.	205,599

1868

U. S. Grant, Rep.	280,167
Horatio Seymour, Dem.	238,621

1872

U. S. Grant, Rep.	281,852
Horace Greeley, Dem. and Liberal	244,321
James Black, Temperance	2,100
Charles O'Connor, Dem.	1,163

102. Presidential Vote of Ohio.—*Continued.*

1876

R. B. Hayes, Rep.	330,698
Samuel J. Tilden, Dem.	323,182
G. Clay Smith, Pro.	1,636
Peter Cooper, Greenback	3,057

1880

James A. Garfield, Rep.	375,048
Winfield S. Hancock, Dem.	340,821
James B. Weaver, Greenback	6,456
Neal Dow, Pro.	2,616

1884

James G. Blaine, Rep.	400,082
Grover Cleveland, Dem.	368,280
John P. St. John, Pro.	11,069
Benj. F. Butler, Greenback	5,179

1888

Benjamin Harrison, Rep.	416,054
Grover Cleveland, Dem.	396,455
Clinton B. Fiske, Pro.	24,356
Alson J. Streeter, Union Labor	3,496

1892

Benjamin Harrison, Rep.	405,187
Grover Cleveland, Dem.	404,115
James B. Weaver, People's	14,850
John Bidwell, Pro.	26,012

1896

William McKinley, Rep.	525,991
Wm. J. Bryan, Dem.-Pop.	477,497
Joshua Levering, Pro.	5,068
Charles E. Bentley, Nat. Party	2,716
Charles H. Matchett, Soc.-Lab.	1,165
John M. Palmer, Nat. Dem.	1,858

1900

William McKinley, Rep.	543,918
Wm. J. Bryan, Dem.-Pop.	474,882
Seth H. Ellis, Union Reform	4,284
John G. Wooley, Pro.	10,203
Jos. F. Malloney, Soc.-Lab.	1,688
Wharton Barker, Peo.	251
Eugene V. Debs, Social Dem.	4,847

1904

Theodore Roosevelt, Rep.	
Alton B. Parker, Dem.	
Swallow, Pro.	
Silas C. Swallow, Pro.	
Thos. E. Watson, Pop.	
C. H. Corregan, Soc.-Lab.	
Eugene V. Debs, Social Dem.	

[1] These figures were obtained from the secretary of state, who compiles and preserves the election returns in Ohio.

103. The State Finances[1]

The revenues used for State purposes are divided according to law into four funds, viz., the General Revenue Fund, the Sinking Fund, the State Common School Fund, and the University Fund. The receipts and disbursements of each for the year ending November 15, 1902, are shown in the following statements:

I. General Revenue Fund

RECEIPTS FOR THE YEAR ENDING NOVEMBER 15, 1902

Balance on hand November 15, 1901		$1,226,664.46
Taxes, etc., from:—		
County treasurers	$2,759,929.20	
Liquor traffic	1,144,962.87	
Show licenses	1,408.52	
Auction duties	72.87	
Cigarette taxes	13,036.58	
Collateral inheritance taxes	13,054.60	
Dow tax collection, general duplicate	155.20	
County treasurers, support Bureau of Public Accounting	7,250.00	
From:—		
George K. Nash, Governor, Ohio war claims	458,559.35	
Auditor of State, fees	125.00	
Auditor of State, excise taxes	594,367.19	
Ohio Penitentiary	58,754.26	
Clerk of Supreme Court	1,220.50	
Insurance Department	565,530.19	
Secretary of State	789,316.43	
Ohio Reformatory	11,460.59	
Examiner of Stationary Engineers	16,318.84	
Dairy and Food Commissioner	4,698.00	
Adjutant General	888.17	
Brewster Coal Company	3,000.00	
Liquor traffic tax from railroad companies	1,225.00	
Convict labor	189,757.00	
Miscellaneous items	8,368.53	
		6,643,458.89

[1]The statement of receipts and disbursements are taken from the *State Auditor's Report for 1902*, pp. 7-10, 13.

Received for and used for the following departments:—		
Commissioner of Railroads and Telegraph	$15,000.00	
Mine Inspector	285.37	
Fish and Game Commission	1,398.40	
Board of Pharmacy	8,500.00	
State school examinations	550.00	
Board of Medical Registration and Examinations	4,500.00	
Ohio Soldiers' and Sailors' Home	142,719.77	
Board of Public Works	90,582.65	
		263,536.19
Total receipts, including balance		$8,133,659.54

DISBURSEMENTS FOR THE YEAR ENDING NOVEMBER 15, 1902

Adjutant General's Office	$20,919.30
Ohio National Guard	260,864.14
State House and Grounds	57,991.58
Agriculture, State Board of	47,763.47
Agricultural Experiment Station	12,868.62
Attorney General's Office	15,936.56
Auditor of State Department	29,198.97
Board of Arbitration	2,665.62
Board of Appraisers and Assessors	5,925.53
Archeological and Historical Society	11,057.20
Board of State Charities	6,286.38
Board of Health	17,835.96
Board of Pardons	4,825.00
Board of Public Works	199,259.19
Fish and Game Commission	30,233.24
Commissioner of Common Schools	9,810.10
Canal Commission	9,273.07
Commissioner of Railroads and Telegraphs	14,352.64
Commissioner of Labor Statistics	20,300.93
Dairy and Food Commission	59,635.02
Commissioner of Public Printing	27,670.00
Governor's Office	19,408.06
Horticultural Society	727.88
Inspector of Mines	18,453.37
Inspectors of Workshops and Factories	29,226.88
Judiciary	344,533.57

Law Library	4,814.23
Legislature	296,128.54
Prosecution and transportation of convicts	107,886.08
Prosecution of war claims	32,066.83
Secretary of State's Office	37,844.79
State Library	15,968.94
Superintendent of Insurance	23,574.75
Building and Loan Bureau	15,007.18
Supervisor of Public Printing	87,923.95
Supreme Court	13,283.68
Clerk of Supreme Court	6,547.02
Reporter of Supreme Court	2,594.35
Treasurer of State's Office	16,865.99
Ohio Penitentiary	370,962.93
Ohio Reformatory	131,788.22
Athens State Hospital	151,518.62
Cleveland State Hospital	183,351.81
Columbus State Hospital	244,925.44
Dayton State Hospital	145,935.66
Longview State Hospital	175,769.98
Toledo State Hospital	277,744.96
Massillon State Hospital	173,622.57
Boys' Industrial School, Lancaster	135,446.61
Girls' Industrial Home, Delaware	44,504.04
Institution for the Blind, Columbus	90,875.09
Institution for Deaf Mutes, Columbus	126,236.60
Institution for the Feeble-minded Youth, Columbus	305,250.56
State Board of Medical Registration	5,008.32
Ohio Soldiers' and Sailors' Home, Sandusky	209,376.21
Ohio Soldiers' and Sailors' Orphans' Home, Xenia	190,143.19
Ohio Hospital for Epileptics, Gallipolis	191,119.43
Miscellaneous Items	109,330.67
Commissioner of Soldiers' Claims	4,275.34
Examiner of Stationary Engineers	17,985.98
State Fire Marshal	32,148.20
State Board of Pharmacy	8,248.38
Total	$5,263,098.42
Add warrants on State Treasury outstanding November 15, 1901	9,431.92
Total warrants on State Treasury	$5,272,530.34
Less warrants outstanding November 15, 1902	7,993.04

Cash payments for the fiscal year ending November 15, 1902	$5,264,537.30
Cash to the credit of General Revenue Fund, November 15, 1902	2,869,122.24
Grand total	$8,133,659.54

II. Sinking Fund

RECEIPTS FOR THE YEAR ENDING NOVEMBER 15, 1902

Balance on hand November 16, 1901		$254,569.23
Received from:—		
County treasurers for taxes	$591,238.70	
County treasurers sections 16 and 29, school lands	8,374.30	
Virginia military lands	141.73	
Ohio University lands	1,130.86	
		600,885.59
Total receipts, including balance		$805,202.50

DISBURSEMENTS FOR THE YEAR ENDING NOVEMBER 15, 1902

Interest on irreducible debt as follows:		
Section 16, School Fund	$204,372.13	
Section 29, Ministerial Fund	8,527.11	
Virginia Military School Fund	11,824.13	
United States Military School Fund	7,216.33	
Western Reserve School Fund	15,449.95	
Ohio University Fund	899.17	
Ohio State University Fund	28,356.01	
Total interest irreducible debt	$276,644.83	
Principal funded debt	$250,000.00	
Interest funded debt	21,500.00	
Office expense	1,931.69	
Expense redeeming bonds	556.75	
		550,633.27
Balance on hand November 15, 1902		254,569.23
Total		$805,202.50

III. State Common School Fund

RECEIPTS FOR THE YEAR ENDING NOVEMBER 15, 1902

Balance in treasury November 16, 1901		$138,391.51
Received from county treasurers in 1902 for taxes	$1,972,132.56	
Received from peddlers' licenses .	1,211.73	
		1,973,344.29
Total receipts, including balance		$2,111,735.80

DISBURSEMENTS FOR THE YEAR ENDING NOVEMBER 15, 1902

Amount paid county treasurers at February and August settlements at $1.50 for each enumerated school youth	$1,829,924.00	
Balance in treasury November 16, 1902	281,811.80	
Total, including balance . . .		$2,111,735.80

IV. University Fund

RECEIPTS FOR THE YEAR ENDING NOVEMBER 15, 1902

Balance in treasury November 15, 1901	$114,350.66
Received from county treasurers in 1902 from taxes	374,720.47
Total, including balance	$489,071.13

DISBURSEMENTS FOR THE YEAR ENDING NOVEMBER 15, 1902

Amount paid Ohio State University .	$229,726.59	
Amount paid Miami University . .	32,128.97	
Amount paid Wilberforce	27,404.02	
Amount paid Ohio University at Athens	33,070.00	
Balance in treasury November 15, 1902	166,741.55	
Total, including balances . . .		$489,071.13

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